

AMENDED IN SENATE JUNE 15, 2006

AMENDED IN ASSEMBLY APRIL 26, 2006

AMENDED IN ASSEMBLY APRIL 17, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2810

**Introduced by Assembly Member Liu
(~~Coauthor: Assembly Member Maze~~)**

February 24, 2006

An act to amend Sections 94830 *repeal and add Chapter 7 (commencing with Section 94700) of Part 59* and 94831 of the Education Code, relating to private postsecondary education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2810, as amended, Liu. Private postsecondary education: ~~fraudulent or substandard degrees~~ *Private Postsecondary and Vocational Education Reform and Student Consumer Protection Act of 2006*.

(1) Existing law, known as the Private Postsecondary and Vocational Education Reform Act of 1989, generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes in the Department of Consumer Affairs the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act. ~~A provision of the act~~

~~provides for it to become inoperative on July 1, 2007, and provides for its repeal on January 1, 2008.~~

~~A provision of the act sets forth grounds pursuant to which the bureau is authorized to refuse to issue or renew the approval to operate of any private postsecondary or vocational educational institution. A provision of the act sets forth various prohibited acts and representations. A provision of the act requires that a violation of these listed prohibitions is a crime.~~

~~An existing provision of the Education Code that is not within the act prohibits a person from preparing, manufacturing, or printing, or offering to prepare, manufacture, or print, a document purporting to be a degree without written authorization from a school authority, as defined. Existing law also prohibits a person from selling, bartering, offering to sell or barter, or conspiring to sell or barter, a diploma or degree, as defined. Existing law further prohibits a person from using, in connection with any business, trade, profession, or occupation, a degree or diploma that has been purchased, illegally obtained, counterfeited, materially altered, or found. Willful violations of these provisions are punishable as misdemeanors.~~

~~This bill would add to the grounds for the refusal of the issuance or renewal of approval to operate, and add to the list of prohibited acts the commission of which is a crime, the conferral, or attempt to confer, a fraudulent or substandard degree, as defined. This provision would impose a state-mandated local program by creating a new crime.~~

The existing act establishes the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. The existing act specifies that certain violations of its provisions are subject to civil penalties and that certain willful violations of the act are punishable as crimes. A provision of the act provides for it to become inoperative on July 1, 2007, and provides for its repeal on January 1, 2008.

This bill would repeal the Private Postsecondary and Vocational Education Reform Act of 1989, and recast, revise, and reenact its provisions as the Private and Vocational Education Reform and Student Consumer Protection Act of 2006. The bill would establish the Board for Private Postsecondary and Vocational Education in the Department of Consumer Affairs, and would provide that the board would succeed to the duties assigned to the bureau under the existing act. The bill would continue the existence of the Private

Postsecondary and Vocational Education Administration Fund and the Student Tuition Recovery Fund, and would also provide that certain violations of the new act would be punishable as crimes.

The bill would provide that the Private Postsecondary and Vocational Education and Student Consumer Protection Act of 2006 would become inoperative on July 1, 2011, and be repealed on January 1, 2012, thereby extending the operation of the regulatory scheme imposed by the former act by 4 years and making an appropriation by also extending by 4 years the existence of the continuously appropriated Student Tuition Recovery Fund.

By extending the operation of the provisions of the act that establish crimes, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Chapter 7 (commencing with Section 94700) of*
2 *Part 59 of the Education Code is repealed.*

3 *SEC. 2. Chapter 7 (commencing with Section 94700) is added*
4 *to Part 59 of the Education Code, to read:*

5
6 *CHAPTER 7. PRIVATE POSTSECONDARY AND VOCATIONAL*
7 *INSTITUTIONS*

8
9 *Article 1. General Provisions*

10
11 94700. *This chapter shall be known, and may be cited, as the*
12 *Private Postsecondary and Vocational Education Reform and*
13 *Student Consumer Protection Act of 2006.*

14 94705. *It is the intent of the Legislature to promote the*
15 *effective integration of private postsecondary education into all*
16 *aspects of California's educational system and to foster and*
17 *improve the educational programs and services of these*

1 institutions while protecting the citizens of the state from
2 fraudulent or substandard operations. It is further the intent of
3 the Legislature to recognize the enormous diversity of
4 California's private postsecondary educational enterprise, with
5 its approximately 2,300 privately supported institutions of
6 academic and vocational education. It is further the intent of the
7 Legislature to provide for the protection, education, and welfare
8 of citizens of California, its postsecondary educational
9 institutions, and its students by providing for all of the following:

10 (a) Ensuring minimum standards of instructional quality and
11 institutional stability for all students in all types of institutions,
12 and thereby encouraging the recognition by public and private
13 institutions of completed coursework and degrees and diplomas
14 issued by private institutions, to the end that students will be
15 provided equal opportunities for equal accomplishment and
16 ability.

17 (b) Establishing minimum standards concerning the quality of
18 education, ethical and business practices, health and safety, and
19 fiscal responsibility to provide protection against substandard,
20 transient, unethical, deceptive, or fraudulent institutions and
21 practices.

22 (c) Prohibiting the granting of false or misleading educational
23 credentials.

24 (d) Prohibiting misleading literature, advertising, solicitation,
25 or representations by private educational institutions or their
26 agents.

27 (e) Recognizing the importance of providing adequate funding
28 through application and renewal fees and federal funding for the
29 veteran's approval process to support the state's activities in
30 implementing this chapter.

31 (f) Protecting the consumer and students against fraud,
32 misrepresentation, or other practices that may lead to an
33 improper loss of funds paid for educational costs, whether
34 financed through personal resources or state and federal student
35 financial aid.

36 (g) Establishing a path for the development of institutions
37 offering fields of study or methods of instruction and innovative
38 educational delivery systems not previously recognized in order
39 to encourage them to become fully approved institutions.

1 (h) *Recognizing and encouraging quality nongovernmental*
2 *accreditation, while not ceding to that or any other*
3 *nongovernmental process the responsibility for state oversight*
4 *for purposes of approval, if the accreditation process fails either*
5 *to protect minimum standards of quality or to acknowledge*
6 *legitimate innovative methods in postsecondary education.*

7 (i) *Establishing an administrative agency staffed by*
8 *individuals who are knowledgeable about private academic and*
9 *vocational education, and charged with the responsibility of*
10 *developing policies and procedures for the oversight and*
11 *approval of private postsecondary and vocational education,*
12 *including the responsibility for managing a broadly construed*
13 *policy and planning process that seeks to improve state*
14 *accountability for private postsecondary and vocational*
15 *education as well as to improve the articulation of private*
16 *postsecondary and vocational education with the public and*
17 *independent postsecondary educational community. This new*
18 *body should provide the leadership and planning needed to*
19 *maintain and develop a strong private sector of this community.*

20
21 Article 2. Definitions
22

23 94710. *The definitions set forth in this article govern the*
24 *construction of this chapter, unless the context requires*
25 *otherwise.*

26 94711. *“Academic year” generally means a period including*
27 *a minimum of 30 weeks of instruction, beginning in the fall term*
28 *of a given year and ending at the end of the summer term of the*
29 *succeeding year. Some private postsecondary institutions may*
30 *adopt a different definition (that is, calendar year) for their*
31 *academic term, to accommodate unique or nontraditional*
32 *conditions such as continuous enrollment or shorter or longer*
33 *term sessions.*

34 94712. *“Accredited” means that an institution has been*
35 *recognized or approved as meeting the standards established by*
36 *an accrediting agency recognized by the United States*
37 *Department of Education, or the Committee of Bar Examiners or*
38 *for the State of California. It does not include those institutions*
39 *that have applied for accreditation, or are identified by*

1 *accrediting associations as candidates for accreditation or have*
2 *provisional accreditation.*

3 94713. “Agency” means any person or business entity,
4 regardless of the form of organization, that employs, or in any
5 manner contracts with, one or more agents. “Agency” does not
6 include an institution.

7 94714. “Agent” means any person who, at a place away from
8 the institution’s premises or site of instruction, but within the
9 United States, for consideration, solicits, promotes, advertises,
10 offers, or attempts to secure enrollment for an institution, refers
11 any person to that institution, either for enrollment or to receive
12 a solicitation for enrollment, or accepts application fees or
13 admissions fees for education in that institution. Administrators
14 and faculty who make informational public appearances, but
15 whose primary task does not include service as a paid recruiter,
16 are not agents. Publishers of secretaries that contain general
17 information on institutions and their offerings and who do not
18 otherwise engage in any of the activities described in this section
19 are not agents.

20 94714.1. “Agent for service of process” means an individual
21 who has consented to act on behalf of the institution’s ownership
22 to receive administrative and judicial notices and pleadings at
23 his or her California address.

24 94715. “Agent’s permit” means a nontransferable written
25 document issued to an agent pursuant to this chapter by the
26 board.

27 94715.1. “Annual report” means the reports required to be
28 filed pursuant to Sections 94808 and 94861.

29 94716. “Applicant” means a new institution that has
30 submitted an application but has not been evaluated by the
31 board. An applicant institution shall not enroll students or offer
32 educational services.

33 94717. An “approval” means a written document issued by
34 the board authorizing a business entity or an institution to
35 engage in the recruitment of and advertisement to students for
36 enrollment in private postsecondary and vocational institutions
37 approved under this chapter.

38 94717.1. “Approval” or “approval to operate” means that
39 the board has determined and certified that an institution meets
40 minimum standards established by the board for integrity,

1 *financial stability, and educational quality, including the offering*
2 *of bona fide instruction by qualified faculty and the appropriate*
3 *assessment of students' achievement prior to, during, and at the*
4 *end of its program.*

5 94717.2. "Associate of Occupational Studies" or "Associate
6 of Applied Science" designated by terms including, but not
7 limited to, AOS (Associate Occupational Studies) or AAS
8 (Associate Applied Science), means an associate degree that may
9 be awarded to students who complete an occupational program
10 that provides preparation for employment in an occupational
11 field.

12 94718. "Avocational education" means education offered
13 only for purposes of personal entertainment, personal pleasure
14 or enjoyment such as a hobby. Education that directly leads to an
15 objective other than personal entertainment, personal pleasure
16 or enjoyment is not "education solely avocational in nature."

17 94718.5. "Board" means the Board for Private
18 Postsecondary and Vocational Education in the Department of
19 Consumer Affairs established pursuant to Section 94770.

20 94719. "Branch" means a site other than the main location
21 or a satellite. Only educational courses or programs approved at
22 the main location may be offered at the branch.

23 94719.5. "Bureau" means the Bureau for Private
24 Postsecondary and Vocational Education in the Department of
25 Consumer Affairs.

26 94720. "Calendar year" means the consecutive 12-month
27 period beginning on January 1 and ending on December 31.

28 94720.1. "Career field" means either of the following:

29 (a) A field for or pursuit of consecutive progressive
30 achievement especially in public, professional, or business life.

31 (b) A profession for which one trains and which is undertaken
32 as a permanent calling.

33 94721. "Change of location" means a move of up to 25 miles
34 of the location at which an institution offers any education,
35 training, or instruction. A change of location of 25 or more miles
36 is deemed the establishment of a new location of instruction
37 requiring a separate approval to operate, unless otherwise
38 provided by the Board.

39 94721.1. "Class" means a subject, such as English or
40 mathematics, which is taught as part of a course of instruction.

1 94721.2. “Class session” means the part of a day that an
2 institution conducts instruction or training in a particular class,
3 such as an hour of instruction in English or mathematics offered
4 on a particular day of the week.

5 94722. (a) Except as provided in subdivision (b),
6 “continuing education” means instruction in any of the following
7 circumstances:

8 (1) Only in subjects licensees are required to take as a
9 condition of continued licensure and solely for that purpose.

10 (2) Only in subjects necessary to continue to practice or work
11 in a profession such as law or medicine and solely for that
12 purpose.

13 (3) To persons who are already in a particular profession,
14 trade, or job category for the sole purpose of enhancing their
15 skills or knowledge within that particular profession, trade, or
16 job category.

17 (b) “Continuing education” does not include any of the
18 following:

19 (1) Vocational diploma programs.

20 (2) Degree programs.

21 (3) An educational service, any part of the charge for which is
22 paid from the proceeds of a loan or grant subject to a
23 governmental student financial aid program.

24 (4) Institutions offering continuing education where the
25 institution or the program is approved, certified, or sponsored by
26 any of the following:

27 (A) A government agency, other than the board, that licenses
28 persons in a particular profession, trade, or job category.

29 (B) A state-recognized professional licensing body, such as the
30 State Bar of California, that licenses persons in a particular
31 profession, trade, or job category.

32 (C) A bona fide trade, business, or professional organization.

33 94723. Any institution that provides lessons for study and
34 completion by a student at a location separate from the
35 institution, including those institutions that offer that instruction
36 by correspondence in combination with in-residence instruction,
37 or in whole or in part through electronically mediated methods.

38 94725. “Course of study” means either a single course or a
39 set of related courses for which a student enrolls. “Course,”
40 “course of study” or “course of instruction,” except as otherwise

1 *provided, means the program of instruction, training, set of*
2 *related courses or education represented to lead to an*
3 *occupation or job title.*

4 94725.1. *With respect to a program directly or indirectly*
5 *financed by the California Educational Facilities Authority,*
6 *“default” means the failure of a borrower to make an installment*
7 *payment when due, or to meet other terms of the loan, within that*
8 *period and under the circumstances determined by the California*
9 *Educational Facilities Authority with respect to that program.*

10 *With respect to a loan under the Stafford Student Loan program*
11 *or Supplemental Loans for Students program, “default” means*
12 *the failure of a borrower to make an installment payment when*
13 *due, or to meet other terms of the promissory note under*
14 *circumstances where the guarantee agency finds it reasonable to*
15 *conclude that the borrower no longer intends to honor the*
16 *obligation to repay, provided that this failure persists for 180*
17 *days for a loan repayable in monthly installments, or 240 days*
18 *for a loan repayable in less frequent installments.*

19 94726. *“Degree” means any type of degree or honorary*
20 *degree or title of any designation, mark, appellation, series of*
21 *letters or words such as, but not limited to, associate, bachelor,*
22 *master, doctor, or fellow which signifies, purports, or is*
23 *generally taken to signify satisfactory completion of the*
24 *requirements of an academic, educational, technological, or*
25 *professional program of study beyond the secondary school level*
26 *or is an honorary title conferred for recognition of some*
27 *meritorious achievement.*

28 94727. *“Degree title” means the designated subject area of*
29 *study that also appears on the face of the document awarded to a*
30 *student signifying the conferring of a “degree.”*

31 94728. *“Diploma” means any diploma, certificate, document,*
32 *or other writing in any language other than a degree which*
33 *signifies, purports, or is generally taken to signify satisfactory*
34 *completion of the requirements of an academic, educational,*
35 *technological, or professional program of study beyond the*
36 *secondary school level.*

37 94728.5. *“Director” means the Executive Officer of the*
38 *Board for Private Postsecondary and Vocational Education.*

39 94728.5. *“Distance education” means education that is*
40 *designed for learners who live at a distance from the teaching*

1 institution or education provider. It is the enrollment and study
2 with an educational institution that provides organized, formal
3 learning opportunities for students. Presented in a sequential and
4 logical order, the instruction is offered wholly or primarily by
5 distance study, through virtually any media.

6 94729. “Education,” “educational program,” or
7 “educational services” includes, but is not necessarily limited to,
8 any class, course, or program of training, instruction, or study.
9 “Educational service” means any education, training, or
10 instruction offered by an institution, including any equipment.

11 94729.1. “Equipment” includes all textbooks, supplies,
12 materials, implements, tools, machinery, computers, electronic
13 devices, or any other goods related to any education, training, or
14 instruction, or an agreement for educational services or a course
15 of instruction.

16 94729.2. (a) “Employment” means either of the following:

17 (1) Full-time employment means employment for at least 32
18 hours per week for a period of at least 60 days in the occupations
19 or job titles to which the program of instruction is represented to
20 lead.

21 (2) Part-time employment means employment for at least 17.5
22 hours, but less than 32 hours, per week for a period of at least 60
23 days in the occupations or job titles to which the program of
24 instruction is represented to lead, provided the student completes
25 a handwritten statement at the beginning of the program and at
26 the end of the program which states that the student’s
27 educational objective is part-time employment. The institution
28 shall not require that any student complete such a statement or
29 provide any incentive, financial or otherwise, to any student for
30 signing such a statement.

31 (3) “Secure” employment means employment starting within
32 six months of completing the program in the occupation to which
33 the program of instruction is represented to lead and continue in
34 employment for a period of at least 60 days.

35 (b) The board shall adopt regulations to specify the job tasks,
36 other than those directly related to generating income, which
37 may be counted towards meeting the hour requirements for
38 full-time and part-time employment for students who are self
39 employed.

1 94729.3. “ESL Instruction” means any educational service
2 involving instruction in English as a second language.

3 94729.4. “Executive officer” means the executive officer of
4 the board for Private Postsecondary and Vocational Education.

5 94729.5. “Faculty” means an instructor or instructors within
6 any of the divisions or comprehensive branches of learning at a
7 college or university. For purposes of this chapter, faculty,
8 instructor, teacher, and professor are synonymous.

9 94729.6. “Franchise institution” means a newly established
10 location of an existing approved institution offering
11 postsecondary education services leading to candidacy for
12 psychology licensure that bears the same name as the existing
13 approved institution and about which either of the following is
14 true:

15 (a) The newly established location is owned or financially
16 controlled by an individual or individuals other than those who
17 own or financially control the existing approved institution.

18 (b) The newly established institution is administered by an
19 individual or individuals other than those persons who
20 administer the existing approved institution.

21 94730. “Hearing” means a hearing pursuant to the
22 requirements of either Section 94965 or 94975.

23 94730.5. “Institution” means any private postsecondary
24 educational institution. An “institution” includes its branch and
25 satellite campuses, unless otherwise provided by the board.

26 94731. “Institutional approval” means an institution that has
27 been evaluated by the board and has been found to be in
28 compliance with the board’s standards pursuant to this chapter.

29 94732. “Instruction” includes any specific, formal
30 arrangement by an institution or its enrollees to participate in
31 learning experiences in which the institution’s faculty or
32 contracted instructors present a planned curriculum appropriate
33 to the enrollee’s educational program.

34 94732.1. “Instructor” means one who instructs; a teacher.
35 For purposes of this chapter, faculty, instructor, teacher, and
36 professor are synonymous.

37 94733. “Intensive English language program” means an
38 educational service approved by the United States Citizenship
39 and Naturalization Services solely to provide English instruction
40 to international students for a designated period of study in the

1 *United States and that offers instruction that is nondegree*
2 *granting, nonvocational, and is not represented to lead to, or*
3 *offered for the purpose of preparing a student for employment in,*
4 *any occupation or job title. Additionally, the educational service*
5 *shall meet all of the following criteria:*

6 *(a) Students enrolling in this type of educational service are*
7 *not residents of this state or citizens of the United States and are*
8 *not eligible for federal or state financial aid, including loans.*

9 *(b) Coursework in this type of educational service is limited to*
10 *English instruction in all areas of language skills development,*
11 *including reading, writing, speaking, listening, grammar, and*
12 *test preparation.*

13 *94734. “License and exam preparation” means an*
14 *educational program that is either of the following:*

15 *(a) Designed to assist students to prepare for an examination*
16 *for licensure.*

17 *(b) Offered for the sole purpose of providing continuing*
18 *education in subjects licensees are required to take as a*
19 *condition of continued licensure.*

20 *94734.5. “Licensure” includes any license, certificate,*
21 *permit, or similar credential that a person must hold to lawfully*
22 *engage in any occupation or activity.*

23 *94735. “Main location” or “main site” means the*
24 *institution’s primary teaching location. If an institution operates*
25 *at only one site, that site shall be considered its main location or*
26 *main site.*

27 *94736. “Non-WASC regional accrediting agency” means a*
28 *regional accrediting agency, other than the Western Association*
29 *of Schools and Colleges, recognized by the United States*
30 *Department of Education as possessing similar quality and rigor*
31 *in accreditation standards, and limited to the following:*

32 *(a) Middle States Association of Colleges and Schools,*
33 *Commission on Higher Education.*

34 *(b) New England Association of Schools and Colleges,*
35 *Commission on Institutions of Higher Education.*

36 *(c) North Central Association of Colleges and Schools, The*
37 *Higher Learning Commission.*

38 *(d) Northwest Association of Schools and of Colleges and*
39 *Universities, Commission on Colleges and Universities.*

1 (e) *Southern Association of Colleges and Schools, Commission*
2 *on Colleges.*

3 94736.1. *“Non-WASC regionally accredited institution”*
4 *means a degree-granting institution that has been accredited by*
5 *one of the non-WASC regional accrediting agencies listed in*
6 *Section 94740.3. It does not include any of the following:*

7 (a) *An institution within the meaning of paragraph (7) of*
8 *subdivision (b) of Section 94739 that has been accredited by the*
9 *Accrediting Commission for Senior Colleges and Universities or*
10 *the Accrediting Commission for Community and Junior Colleges*
11 *of the Western Association of Schools and Colleges.*

12 (b) *An institution that has provisional accreditation.*

13 (c) *An institution that has applied for accreditation.*

14 (d) *An institution that is identified by an accrediting agency as*
15 *a candidate for accreditation.*

16 94737. *“Out-of-state school” means any private*
17 *postsecondary or vocational educational institution offering*
18 *career or job training programs, including both an in-residence*
19 *institution and a home-study institution that has its place of*
20 *instruction or its principal location outside the boundaries of the*
21 *state, or that offers or conducts programs of instruction or*
22 *subjects on premises maintained by the school outside the*
23 *boundaries of the state, or that provides distance education or*
24 *learning, correspondence or home-study lesson materials from a*
25 *location outside the boundaries of this state, or that evaluates*
26 *completed lesson materials or otherwise conducts its evaluation*
27 *service from a location outside the boundaries of this state, or*
28 *that otherwise offers or provides California students with*
29 *programs of instruction or subjects through activities engaged in*
30 *or conducted outside the boundaries of the state.*

31 94737.1. *“Owner” means any person who has a legal or*
32 *equitable interest in 10 percent or more of an institution’s stock*
33 *or assets.*

34 94737.2. *A “parent corporation” means a corporation that*
35 *owns more than 80 percent of the stock of the institution whose*
36 *financial resources are at issue.*

37 94738. *“Person” means a natural person or any business*
38 *entity, regardless of the form or organization.*

39 94738.1. *“Person in control” means a person who has*
40 *sufficient capacity, directly or indirectly, to direct or influence*

1 *the management, policies, or conduct of the institution so that the*
2 *person can cause or prevent violations of this chapter. There is a*
3 *rebuttable presumption affecting the burden of proof that an*
4 *owner, director, or officer of an institution is a person in control.*

5 94738.2. (a) “Physical presence” means an institution
6 operating an instructional site within the borders of California
7 for the purpose of offering postsecondary educational activities
8 that are not otherwise exempt from this chapter pursuant to
9 Section 94739. An instructional site includes all instruction
10 provided in person, electronically, through correspondence, by
11 telephone or facsimile. Physical presence shall also mean the
12 maintenance or advertisement of an administrative location in
13 California, such as a mailing address or post office box, for
14 education related activities including, but not limited to, student
15 recruitment, advising, mentoring, study groups, and any other
16 arrangement that involves an organized group activity,
17 comprised of students or prospective students, to include
18 instruction, chat rooms, seminars, or the administration of
19 examinations. Representatives contracted or paid by institutions
20 for the purpose of conducting instructional or academic support
21 activities shall also be considered a physical presence in the
22 State of California.

23 (b) “Physical presence” means an institution that employs in
24 California any person or persons for the purpose of
25 administering, coordinating, teaching, training, tutoring,
26 counseling, advising, or any other activity on behalf of the
27 sponsoring organization. In addition, the institution has physical
28 presence in California if it delivers, or plans to deliver,
29 instruction in California, and receives assistance from any other
30 organization within the state in delivering the instruction, such
31 as, but not limited to, a cable television company or a television
32 broadcast station that carries instruction sponsored by the
33 institution.

34 94738.3. “Placement rate” means the percentage of students
35 who fulfilled the provisions of the following two subdivisions:

36 (a) Began the program, did not cancel pursuant to Section
37 94867, and were originally scheduled at the time of enrollment to
38 complete the program during the applicable time period
39 described in subdivision (b).

1 ***(b) (1) Completed the program, within the applicable time***
2 *period described in this subdivision and started employment*
3 *within six months of completing the program or, if employment*
4 *requires taking a state licensure examination for which only*
5 *graduates of the program may apply, and then: (A) started*
6 *employment within six months of the date on which the state*
7 *licensing agency announces the results of the first licensure*
8 *examination reasonably available to students who completed the*
9 *program, or (B) started employment within six months of the next*
10 *reasonably available licensure examination date for any student*
11 *who did not receive passing results on the first exam.*

12 ***(2) The time period determined pursuant to this subparagraph***
13 *shall not exceed 10 months beyond the date of completion of the*
14 *program of instruction. The institution shall retain a record of*
15 *the date of the first reasonably available licensure exam*
16 *following the completion date of each student, the date the*
17 *licensure agency announces the results of the first reasonably*
18 *available licensure exam, and the date of the next reasonably*
19 *available licensure exam for each student who did not pass the*
20 *first exam.*

21 ***94739. (a) "Private postsecondary educational institution"***
22 *means any person doing business in California that offers to*
23 *provide or provides, for a tuition, fee, or other charge, any*
24 *instruction, training, or education under any of the following*
25 *circumstances:*

26 ***(1) A majority of the students to whom instruction, training, or***
27 *education is provided during any 12-month period is obtained*
28 *from, or on behalf of, students who have completed or terminated*
29 *their secondary education or are beyond the age of compulsory*
30 *high school attendance.*

31 ***(2) More than 50 percent of the revenue derived from***
32 *providing instruction, training, or education during any*
33 *12-month period is obtained from, or on behalf of, students who*
34 *have completed or terminated their secondary education or are*
35 *beyond the age of compulsory high school attendance.*

36 ***(3) More than 50 percent of the hours of instruction, training,***
37 *or education provided during any 12-month period is provided to*
38 *students who have completed or terminated their secondary*
39 *education or are beyond the age of compulsory high school*
40 *attendance.*

1 (4) A substantial portion, as determined by the board, by
2 regulation, of the instruction, training, or education provided is
3 provided to students who have completed or terminated their
4 secondary education or are beyond the age of compulsory high
5 school attendance.

6 (b) The following are not considered to be private
7 postsecondary educational institutions under this chapter:

8 (1) Institutions exclusively offering instruction at any or all
9 levels from preschool through grade 12.

10 (2) Institutions offering education solely avocational or
11 recreational in nature, and institutions offering this education
12 exclusively.

13 (3) Institutions offering education sponsored by a bona fide
14 trade, business, professional, or fraternal organization, solely for
15 that organization's membership.

16 (4) Postsecondary or vocational educational institutions
17 established, operated, and governed by the federal government
18 or by this state, or its political subdivisions.

19 (5) A nonprofit institution owned, controlled, and operated
20 and maintained by a bona fide church, religious denomination,
21 or religious organization comprised of multidenominational
22 members of the same well-recognized religion, lawfully
23 operating as a nonprofit religious corporation pursuant to Part 4
24 (commencing with Section 9110) of Division 2 of Title 1 of the
25 Corporations Code. The education is limited as follows:

26 (A) Instruction in the principles of that church, religious
27 denomination, or religious organization, or to courses offered
28 pursuant to Section 2789 of the Business and Professions Code.

29 (B) The diploma or degree is limited to evidence of completion
30 of that education.

31 (C) The meritorious recognition upon which any degree or
32 honorary degree is conferred is limited to the principles of that
33 church, religious denomination, or religious organization.

34 (D) Institutions operating under this paragraph shall offer
35 degrees and diplomas only in the beliefs and practices of the
36 church, religious denomination, or religious organization.

37 (E) Institutions operating under this paragraph shall not
38 award degrees in any area of physical science.

39 (F) Any degree or diploma granted in any area of study under
40 these provisions shall contain on its face, in the written

1 *description of the title of the degree being conferred, a reference*
2 *to the theological or religious aspect of the degree's subject*
3 *area. Degrees awarded under this paragraph shall reflect the*
4 *nature of the degree title, such as "Associate of Religious*
5 *Studies," or "Bachelor of Religious Studies," or "Master of*
6 *Divinity" or "Doctor of Divinity." The use of the degree titles*
7 *"Associate of Arts" or "Associate of Science," "Bachelor of*
8 *Arts" or "Bachelor of Science," "Master of Arts" or "Master of*
9 *Science," or "Doctor of Philosophy" or "Ph.D." shall only be*
10 *awarded by institutions approved to operate under Article 8*
11 *(commencing with Section 94900) or meeting the requirements*
12 *for an exemption under Section 94750.*

13 (G) (i) *An institution operating under this paragraph shall*
14 *participate in the Integrated Postsecondary Education Data*
15 *System (IPEDS) reporting system and file annually with the*
16 *board evidence to demonstrate its status as a nonprofit religious*
17 *corporation under the Corporations Code.*

18 (ii) *The enactment of this paragraph expresses the legislative*
19 *intent that the state shall not involve itself in the content of*
20 *degree programs awarded by any institution operating under this*
21 *paragraph, as long as the institution awards degrees and*
22 *diplomas only in the beliefs and practices of the church, religious*
23 *denomination, or religious organization. The enactment of this*
24 *paragraph is intended to prevent any entity claiming to be a*
25 *nonprofit institution owned, controlled, and operated and*
26 *maintained by a bona fide church, religious denomination, or*
27 *religious organization comprised of multidenominational*
28 *members of the same well-recognized religion, lawfully*
29 *operating as a nonprofit religious corporation pursuant to Part 4*
30 *(commencing with Section 9110) of Division 2 of Title 1 of the*
31 *Corporations Code, from marketing and granting degrees or*
32 *diplomas that are represented as being linked to their church,*
33 *religious denomination, or religious organization, but which, in*
34 *reality, are degrees in secular areas of study.*

35 (6) (A) *Public institutions accredited by the Accrediting*
36 *Commission for Senior Colleges and Universities or the*
37 *Accrediting Commission for Community and Junior Colleges of*
38 *the Western Association of Schools and Colleges.*

39 (B) *Institutions accredited by the Accrediting Commission for*
40 *Senior Colleges and Universities or the Accrediting Commission*

1 *for Community and Junior Colleges of the Western Association*
2 *of Schools and Colleges that are incorporated and lawfully*
3 *operating as a nonprofit public benefit corporation pursuant to*
4 *Part 2 (commencing with Section 5110) of Division 2 of Title 1 of*
5 *the Corporations Code and that are not managed by any entity*
6 *for profit.*

7 *(C) For-profit institutions accredited by the Accrediting*
8 *Commission for Senior Colleges and Universities or the*
9 *Accrediting Commission for Community and Junior Colleges of*
10 *the Western Association of Schools and Colleges.*

11 *(D) Institutions accredited by the Western Association of*
12 *Schools and Colleges that do not meet all of the criteria in*
13 *subparagraph (B) and that are incorporated and lawfully*
14 *operating as a nonprofit public benefit corporation pursuant to*
15 *Part 2 (commencing with Section 5110) of Division 2 of Title 1 of*
16 *the Corporations Code, that have been in continuous operation*
17 *since April 15, 1997, and that are not managed by any entity for*
18 *profit. Institutions that meet the criteria in subparagraph (C)*
19 *shall be subject to Section 94931.2, except subdivision (c) of that*
20 *section, and Sections 94932, 94933, 94838, and 94985.*

21 *(7) Institutions that exclusively offer programs that cost five*
22 *hundred dollars (\$500) or less.*

23 *94740. “Program” or “program of instruction or study”*
24 *means a program of training, set of related courses, or education*
25 *for which a student enrolls. “Program” or “program of*
26 *instruction or study,” except as otherwise provided, means the*
27 *program of instruction, training, set of related courses or*
28 *education represented to lead to an occupation or job title.*

29 *94740.1. “Registered,” “registered institution,” or*
30 *“registered educational service” means any individual or*
31 *organization that offers an educational service and is registered*
32 *to operate under Article 9 (commencing with Section 94931).*
33 *Programs or courses offered as “registered” cannot lead to*
34 *degrees or completion of units of credit.*

35 *94740.2. “Reporting period” means the institution’s fiscal*
36 *year or any year period designated by the board to be covered in*
37 *the institution’s annual report.*

38 *94741. “Representative” means an employee, an agent as*
39 *defined in Section 2295 of the Civil Code, an agent subject to*

1 Section 94940, an agency subject to Section 94942, or any
2 person who, for compensation, does either of the following:

3 (a) Solicits, promotes, advertises, or refers or recruits students
4 or prospective students for an institution.

5 (b) Is involved with enrollment, admissions, student
6 attendance, administration, financial aid, instruction, or job
7 placement assistance on behalf of an institution.

8 94742. "Satellite" means an auxiliary classroom or a
9 teaching site. Student services such as enrollment, advising or
10 placement, shall not occur at a satellite location. All of the
11 following apply to a satellite:

12 (a) A satellite must be physically located within 25 miles of an
13 institution's main or branch location.

14 (b) Only educational services that are approved at the main
15 location shall be offered at the satellite.

16 (c) The institution shall maintain no permanent records of
17 attendance or academic progress at the satellite.

18 (d) Advertisement of a satellite shall indicate that the satellite
19 is an auxiliary classroom or a teaching site.

20 94742.3. "Short-term education program" means an
21 educational service meeting all of the following criteria:

22 (a) The total charge to the student is more than five hundred
23 dollars (\$500) and not more than two thousand dollars (\$2,000).

24 (b) The length of training is 250 hours or less.

25 (c) The service is not any of the following:

26 (1) Instruction leading to a degree.

27 (2) Instruction financed by a federal or state loan or grant.

28 (3) Any educational service that was originally longer than
29 250 hours or cost more than two thousand dollars (\$2,000), but
30 has been structured into segments to meet the requirement of
31 subdivision (a).

32 (d) The service is offered by approved institutions or
33 institutions registered pursuant to Article 9 (commencing with
34 Section 94931).

35 94743. "Site" means a main location, branch, or satellite
36 campus.

37 94743.1. "Teach-out" means an arrangement whereby an
38 institution offers to provide to a student, without any additional
39 charge, all of the instruction promised but not provided to that
40 student by a closed institution because of the closure.

1 94743.2. *“Teach-out institution” means the institution*
2 *offering a teach-out.*

3 94743.3. (a) *An institution closing, not seeking renewal to*
4 *operate, or whose approval to operate is discontinued, before the*
5 *completion of educational services by all enrolled students shall*
6 *have a plan approved by the board that includes specific*
7 *provisions for the treatment of currently enrolled students in the*
8 *event of school closure. Closing schools shall communicate to all*
9 *enrolled students that these provisions exist and are available to*
10 *them. Closing schools shall provide opportunities for students to*
11 *complete their educational programs at another institution, or*
12 *shall provide a full refund and fee refund to students in the event*
13 *that the board determines that the school has not fulfilled its*
14 *contractual obligation to them.*

15 (b) *The plan required by subdivision (a) shall contain detailed*
16 *procedures that will be used in the event of closure, including all*
17 *of the following:*

18 (1) *Arrangements made for students to receive continued*
19 *instruction.*

20 (2) *Procedures for making tuition and fee refunds, including*
21 *the source of these funds (for example: bonds, letters of credit, or*
22 *other sources).*

23 (3) *Written descriptions that will be used to inform enrolled*
24 *students of these plans.*

25 (c) *The board-approved plan shall further provide for the*
26 *retention and disposition of records in the event of closure.*
27 *Arrangements shall be made for the transference of complete*
28 *academic and financial aid records to other institutions or*
29 *agencies in the event of closure, and currently enrolled and*
30 *former students, including graduates, shall be informed of the*
31 *location of those records and how they can gain access to them.*
32 *The institution or agency holding the records shall be directed to*
33 *inform the board if the records are later moved.*

34 94743.4. *“Total charge” means the total charge for a course*
35 *of instruction or other education, instruction, or training,*
36 *including the charge for tuition, equipment, finance charges, and*
37 *all other fees, charges, costs, and expenses.*

38 94744. *“To offer” includes, in addition to its usual meanings,*
39 *advertising, publicizing, soliciting, or encouraging any person,*
40 *directly or indirectly, in any form, to perform the act described.*

1 94745. (a) *“To operate” an educational institution, or like*
2 *term, means to establish, keep, or maintain any facility or*
3 *location in this state where, or from or through which,*
4 *educational services are offered or educational degrees or*
5 *diplomas are offered or granted.*

6 (b) *Offering courses in person, by correspondence, or*
7 *electronic media, at any California location for degree credit,*
8 *including electronic courses transmitted into the State of*
9 *California.*

10 (c) *Granting or offering to grant degrees in California for*
11 *credit obtained within or outside the state.*

12 (d) *Maintaining or advertising a California location, mailing*
13 *address, or telephone number for any purpose or any other*
14 *function of a degree-granting institution, other than contact with*
15 *the institution’s former students for any legitimate purpose*
16 *related to their having attended.*

17 94746. *“University” means an institution of higher education*
18 *that confers master’s or doctorate degrees upon the completion*
19 *of programs of graduate or professional study and that may also*
20 *confer bachelor’s degrees upon the completion of programs of*
21 *study.*

22 94747. *“Vocational diploma program” means an educational*
23 *program having all of the following characteristics:*

24 (a) *The educational program consists of a job-training*
25 *program or other instruction, training, or education that the*
26 *institution represents will lead to, fit, or prepare students for*
27 *employment in any occupation.*

28 (b) *The program is offered to students who do not possess a*
29 *bachelor’s or graduate degree in the field of training.*

30 (c) *Students who complete all or a portion of the program are*
31 *awarded a diploma or certificate.*

32
33 Article 3. *Exceptions*
34

35 94750. (a) *This chapter applies to nationally and non-WASC*
36 *regionally accredited institutions, as long as they are accredited*
37 *by accrediting agencies recognized by the United States*
38 *Department of Education, with the exception of the following*
39 *provisions:*

40 (1) *Article 4 (commencing with Section 94770).*

- 1 (2) Article 8 (commencing with Section 94900).
2 (3) Subdivision (c) of Section 94931.2.
3 (4) Section 94934.
4 (5) Section 94942.
5 (6) Section 94944.
6 (7) Section 94945.
7 (b) However, nationally and non-WASC regionally accredited
8 institutions shall only be entitled to the exceptions referenced in
9 this paragraph if the board has determined that the institution is
10 in compliance with all of the following:
11 (1) The institution meets the requirements set forth in Article 6
12 (commencing with Section 94800).
13 (2) The faculty of the institution meets the requirements set
14 forth in Section 94902.
15 (3) The institution's cohort default rate on guaranteed student
16 loans does not exceed 15 percent for the three most recent years
17 as published by the United States Department of Education.
18 (4) The institution submits to the board copies of the most
19 recent IRS Form 990 and the Integrated Postsecondary
20 Education Data System Report of the United States Department
21 of Education and the accumulated default rate.
22 (5) The institution pays fees in accordance with Section 94790.
23 (6) The institution exclusively confers degrees upon the
24 completion of a course of study of two or more years. Institutions
25 that satisfy the requirements of this subdivision may also do
26 either of the following:
27 (A) Teach state-mandated continuing education programs if
28 the institution offers a degree for which the continuing education
29 program is required.
30 (B) Teach prerequisite courses for admission to a degree
31 program offered at the institution.
32 (7) The institution has offered an associate, baccalaureate,
33 masters, doctorate, or first professional degree program in this
34 state for at least five years. This paragraph does not apply to
35 non-WASC regionally accredited institutions that offer
36 nondegree programs.
37 (8) The institution is incorporated and lawfully operates as a
38 nonprofit public benefit corporation pursuant to Part 2
39 (commencing with Section 5110) of Division 2 of Title 1 of the

1 *Corporations Code and is not managed or administered by an*
2 *entity for profit.*

3 *(9) The institution has submitted an application to operate for*
4 *itself or a branch or satellite campus pursuant to Section 94802*
5 *or an application for renewal pursuant to Section 94840.*

6 *94755. (a) The Committee of Bar Examiners for the State of*
7 *California, in lieu of the board, shall be responsible for the*
8 *approval, regulation, and oversight of degree-granting law*
9 *schools that (1) exclusively offer bachelor's, master's, or*
10 *doctorate degrees in law, such as Juris Doctor, and (2) are not*
11 *otherwise exempt under Section 94750. This paragraph does not*
12 *apply to unaccredited law schools that remain subject to the*
13 *jurisdiction of the board.*

14 *(b) If a law school not exempt under Section 94750 offers*
15 *educational services other than bachelor's, master's, or*
16 *doctorate-degree programs in law, the law school and its nonlaw*
17 *degree programs shall be subject to this chapter, and the law*
18 *school's degree programs in law shall be subject to the*
19 *approval, regulation, and oversight of the Committee of Bar*
20 *Examiners.*

21 *94757. (a) All institutions that were certified to offer flight*
22 *instruction by the Federal Aviation Administration (FAA) and*
23 *that operated in California on December 31, 1990, pursuant to*
24 *prior authority of subdivision (a) or (b) of former Section 94311,*
25 *shall receive approval from the board for a period not to exceed*
26 *three years. On or before June 30, 1999, the board shall work in*
27 *cooperation with the FAA to review each of these institutions to*
28 *determine whether the institution is in compliance with the*
29 *requirements of this chapter. It is the intent of the Legislature*
30 *that all institutions whose cumulative gross student loan default*
31 *rate is above 40 percent, as determined by the Student Aid*
32 *Commission, shall be reviewed by the FAA and the board to*
33 *determine if these institutions are in compliance with the*
34 *requirements of this chapter and should continue to be approved*
35 *to offer educational programs in California. It is further the*
36 *intent of the Legislature that the board develop a memorandum*
37 *of understanding with the FAA to delineate the responsibilities of*
38 *each agency for the approval and monitoring of these institutions*
39 *that were operating on December 31, 1990, under the prior*
40 *authority of subdivision (a) or (b) of former Section 94311.*

1 ***(b) Institutions certified to offer flight instruction by the FAA,***
2 ***or its successor agency, shall comply with all of the requirements***
3 ***of Sections 94800, 94810, 94814, and 94816, Sections 94820 to***
4 ***94826, inclusive, and Sections 94828 and 94829 and Article 7***
5 ***(commencing with Section 94850) if applicable, but shall not be***
6 ***required to file any materials with the board that are not***
7 ***required by the FAA or its successor agency, except those***
8 ***minimally necessary to administer the Student Tuition Recovery***
9 ***Fund as determined by the board. The responsibility for***
10 ***monitoring and enforcing institutional compliance for these***
11 ***institutions shall be with the board.***

12 ***(c) This chapter does not apply to individual flight instructors***
13 ***not requiring any advance payments, who do not negotiate a***
14 ***formal contract of indebtedness, and who do not have an***
15 ***established place of business other than their residences.***

16
17 ***Article 4. Administration***
18

19 94770. ***(a) There is hereby established an interim Board for***
20 ***Private Postsecondary and Vocational Education in the***
21 ***Department of Consumer Affairs. The board shall succeed to any***
22 ***and all rights and claims of the former Council for Private***
23 ***Postsecondary and Vocational Education and the former Bureau***
24 ***for Private Postsecondary and Vocational Education within the***
25 ***Department of Consumer Affairs that may have been asserted in***
26 ***any judicial or administrative action pending on January 1,***
27 ***2007, and shall take any action reasonably necessary to assert***
28 ***and realize those rights and claims in its own name. The***
29 ***functions of the former council and former bureau and the***
30 ***responsibilities the former council and the former bureau had for***
31 ***the administration of former Chapter 7 (commencing with***
32 ***Section 94700) on June 29, 1997, are transferred to the board,***
33 ***effective January 1, 2007, as provided by this chapter. It is the***
34 ***intent of the Legislature that there be no gap in the performance***
35 ***of functions or the administration of the law governing private***
36 ***postsecondary educational institutions. Notwithstanding any***
37 ***other provision of law, Section 19050.9 of the Government Code***
38 ***shall apply regardless of the date on which former Chapter 7***
39 ***(commencing with Section 94700) became inoperative or was***
40 ***repealed.***

1 (b) *The board, working through the executive director, shall*
2 *have the responsibility for approving and regulating private*
3 *postsecondary education institutions and for developing state*
4 *policies for private postsecondary education in California. The*
5 *board shall represent the private postsecondary education*
6 *institutions in all state level planning and policy discussions*
7 *about postsecondary and vocational education, and shall have,*
8 *as its objective, the development of a strong, vigorous, and*
9 *widely respected sector of private postsecondary and vocational*
10 *education.*

11 (c) *The board shall be composed of nine voting members,*
12 *including the following representatives:*

13 (1) *The Governor, or his or her designee.*

14 (2) *The Attorney General, or his or her designee.*

15 (3) *The President pro Tempore of the Senate, or his or her*
16 *designee.*

17 (4) *The Minority Floor Leader of the Senate, or his or her*
18 *designee.*

19 (5) *The Speaker of the Assembly, or his or her designee.*

20 (6) *The Minority Floor Leader of the Assembly, or his or her*
21 *designee.*

22 (7) *The Chair of the California Postsecondary Education*
23 *Commission, or his or her designee.*

24 (8) *The Secretary of Education, or his or her designee.*

25 (9) *The Secretary of the State and Consumer Services Agency,*
26 *or his or her designee.*

27 (d) *Five members of the board shall constitute a quorum for*
28 *the transaction of business at any meeting. For the purpose of*
29 *transacting its business, the board shall meet at least once every*
30 *three months. The board shall keep a record of all its*
31 *proceedings.*

32 (e) *No person who is employed by an institution of public or*
33 *private postsecondary or vocational education, or who is*
34 *employed by an organization owning an interest in a private*
35 *postsecondary or vocational education institution, shall be*
36 *appointed to, or serve on, the board. The executive officer of the*
37 *board shall not be a member of the board.*

38 (f) *The board, working through the executive director, shall*
39 *have possession and control of all records, papers, offices,*
40 *equipment, supplies, or other property, real or personal, held for*

1 *the benefit or use by the former council and the current bureau in*
2 *the performance of the duties, powers, purposes, responsibilities,*
3 *and jurisdictions that are vested in the board.*

4 *94770.1. Protection of the public shall be the highest priority*
5 *for the board in exercising its approval, regulatory, and*
6 *disciplinary functions. Whenever the protection of the public is*
7 *inconsistent with other interests sought to be promoted, the*
8 *protection of the public shall be paramount.*

9 *94771. (a) The duty of administering and enforcing this*
10 *chapter is vested in the Executive Officer of the Board for Private*
11 *Postsecondary and Vocational Education, who may assign and*
12 *delegate those duties to a deputy director or program*
13 *administrator, subject to the other provisions of this section.*

14 *(b) Every power granted to, or duty imposed upon, the board*
15 *under this chapter may be exercised or performed in the name of*
16 *the board, subject to any conditions and limitations the board*
17 *may prescribe. The executive officer of the board may redelegate*
18 *any of those powers or duties to his or her designee. The*
19 *executive officer shall be appointed by the Governor and*
20 *confirmed by the Senate, and is exempt from the State Civil*
21 *Service Act (Part 2 (commencing with Section 18500) of Division*
22 *5 of Title 2 of the Government Code).*

23 *(c) The executive officer, in accordance with the State Civil*
24 *Service Act, may appoint and fix the compensation of clerical,*
25 *inspection, investigation, evaluation, and auditing personnel, as*
26 *may be necessary to carry out this chapter.*

27 *(d) The proceedings under this chapter shall be conducted by*
28 *the board in accordance with Chapter 5 (commencing with*
29 *Section 11500) of Part 1 of Division 3 of Title 2 of the*
30 *Government Code. To the extent of any conflict between any of*
31 *the provisions of this chapter and Chapter 5 (commencing with*
32 *Section 11500) of Part 1 of Division 3 of Title 2 of the*
33 *Government Code, that Chapter 5 shall prevail.*

34 *(e) The executive officer shall appoint an advisory committee*
35 *that shall consist of representatives of institutions, student*
36 *advocates, and employers who hire students, among other*
37 *parties. The advisory committee shall be balanced to ensure that*
38 *institutions and student advocates have approximate equal*
39 *representation. Institutional representatives on the committee*
40 *shall be in general proportion to the types of institutions*

1 approved or registered pursuant to this chapter and to the
2 number of students served by each type of institution. The
3 advisory committee shall advise the executive officer concerning
4 the executive officer's administration, licensing, and enforcement
5 functions under this chapter.

6 (f) The executive officer is authorized to do all of the
7 following:

8 (1) Plan, direct, supervise, and organize the work of the staff
9 of the board.

10 (2) Research postsecondary education issues, propose policy
11 positions and make recommendations to the board.

12 (3) Develop and implement regulations adopted by the board.

13 (4) Collect fees, issue approvals and permits, and investigate
14 complaints.

15 (5) Manage and administer funds and budgets according to
16 board directions.

17 (6) Report to the board regarding implementation of board
18 policies and responses to board activity.

19 (7) Represent the board, as appropriate, in public policy
20 discussions and to the public and media.

21 94772. It is the intent of the Legislature that the board's
22 approval and regulating responsibilities be funded solely through
23 approval fees and federal funding provided to implement the
24 approval process for courses offered to veterans by approved
25 institutions.

26 94774. The board shall have the following functions and
27 responsibilities in its capacity as the statewide private
28 postsecondary and vocational educational planning and
29 licensing agency:

30 (a) The establishment of policies for the administration of this
31 chapter.

32 (b) The establishment of minimum criteria for the approval of
33 private postsecondary or vocational educational institutions to
34 operate in California and award degrees and diplomas, and for
35 the approval of institutions that meet the criteria.

36 (c) The adoption of regulations governing the conduct of
37 institutions under this chapter, including, but not limited to,
38 minimum state standards for refund policies, advertising,
39 enrollment agreements and contracts, consumer information,
40 attendance policies, and financial responsibility.

1 (d) *The adoption of regulations for the transaction of its own*
2 *affairs, and procedures necessary or appropriate for the conduct*
3 *of its work and the implementation of this chapter.*

4 (e) *The publication of an Internet directory of all private*
5 *postsecondary and vocational educational institutions approved*
6 *to operate in California under this chapter.*

7 (f) *The impaneling of special committees of technically*
8 *qualified persons to assist the board in the development of*
9 *standards for education and educational institutions and the*
10 *evaluation of an application or institutions pursuant to this*
11 *chapter. The members of the special committees shall receive no*
12 *compensation but shall be reimbursed for their actual expenses*
13 *for attendance at official meetings and actual expenses when on*
14 *official board business. The members of the special committees*
15 *shall serve at no expense to the state. The actual travel and per*
16 *diem expenses incurred by each member of a special committee*
17 *shall be reimbursed by the institution that is the subject of*
18 *inspection or investigation.*

19 (1) *The board may design and administer a process for the*
20 *approval of courses offered to veterans, and for the approval and*
21 *supervision of the institutions offering courses to veterans,*
22 *pursuant to any applicable act of Congress and the regulations*
23 *adopted pursuant to such an act.*

24 (2) *For the purposes of this subdivision, the board:*

25 (A) *Is designated as the state approving agency for veterans'*
26 *institutions and veterans' courses, and is authorized to be*
27 *reimbursed for its services in this regard.*

28 (B) *Has the same powers conferred on the United States*
29 *Secretary of Education by Article 6 (commencing with Section*
30 *12090) of Chapter 1 of Part 8, to enter into agreements and*
31 *cooperate with the United States Department of Veterans Affairs,*
32 *or any other federal agency, regarding approval of courses, and*
33 *the approval and supervision of institutions that offer courses to*
34 *veterans.*

35 (C) *May adopt regulations that are necessary and appropriate*
36 *to exercise its authority under this subdivision.*

37 94774.5. (a) *For the purposes of administration and*
38 *enforcement of this chapter, the officers and employees of the*
39 *board, shall have all the powers and authority granted under this*
40 *chapter and under Division 1 (commencing with Section 100)*

1 *and Division 1.5 (commencing with Section 475) of the Business*
2 *and Professions Code. In addition to satisfying the approval,*
3 *compliance, and enforcement provisions of this chapter, the*
4 *board shall also comply with and exercise all authority granted*
5 *by Division 1 (commencing with Section 100) and Division 1.5*
6 *(commencing with Section 475) of the Business and Professions*
7 *Code.*

8 *(b) The board shall establish a regular inspection program*
9 *which shall include unannounced inspections.*

10 *(c) If the board determines after an investigation that an*
11 *institution has violated this chapter or any of the regulations*
12 *adopted by the board, the board may do any or all of the*
13 *following:*

14 *(1) Place the institution on probation.*

15 *(2) Issue an order prohibiting the enrollment of new students.*

16 *(3) Issue an administrative citation and impose an*
17 *administrative fine as authorized by, and in accordance with,*
18 *Section 94957 of this code or Section 146, 147, or 148 of the*
19 *Business and Professions Code.*

20 *(4) Issue an order of abatement or citation pursuant to Section*
21 *125.9 or 148 of the Business and Professions Code.*

22 *(5) Initiate proceedings under the Administrative Procedure*
23 *Act or this chapter to revoke or suspend the institution's*
24 *approval to operate.*

25 *(6) With the consent of the institution, refer an adjudicative*
26 *proceeding to mediation, or binding or nonbinding arbitration,*
27 *in accordance with the regulations of the Office of Administrative*
28 *Hearings or the board.*

29 *(7) Order reimbursement of the costs of the investigation and*
30 *enforcement in accordance with Section 94792 of this code or*
31 *Section 125.3 of the Business and Professions Code. An*
32 *institution shall not be required to pay the same costs and*
33 *expenses to more than one investigating entity.*

34 *(8) Notify a telephone company to disconnect the institution's*
35 *telephone as authorized by Section 149 of the Business and*
36 *Professions Code.*

37 *94775. (a) Any person, serving on a special committee of the*
38 *board pursuant to subdivision (i) of Section 94792, a visiting*
39 *committee pursuant to Section 94901, or any other peer review*
40 *body impaneled by the board and who provides information to*

1 *the board or its staff in the course and scope of evaluating any*
2 *institution subject to this chapter or who testifies at any*
3 *administrative hearing arising under this chapter, is entitled to a*
4 *defense by, and indemnification from, the board to any action*
5 *arising out of information or testimony to the board which that*
6 *person would have if he or she were a public employee.*

7 *(b) Any defense by, or indemnification from, the board, as*
8 *specified in subdivision (a) shall be solely with respect to that*
9 *claim or action pursuant to Article 4 (commencing with Section*
10 *825) of Chapter 1 of Part 2 of, and Part 7 (commencing with*
11 *Section 995) of, Division 3.6 of Title 1 of the Government Code.*

12 *94776. The board may purchase annuity contracts for*
13 *permanent employees who formerly were permanent employees*
14 *of the State Department of Education and who had similar*
15 *state-purchased annuity contracts prior to January 1, 1998. The*
16 *board shall reduce the salaries of the employees for whom the*
17 *contracts are purchased by the amount of the costs of the*
18 *contract if all of the following conditions are met:*

19 *(a) The annuity contract is under an annuity plan that meets*
20 *the requirements of subdivision (b) of Section 403 of the Internal*
21 *Revenue Code.*

22 *(b) The employee applies to the board for the purchase of the*
23 *contract and reduction of salary.*

24 *(c) All provisions of the Insurance Code and the Government*
25 *Code applicable to the purchase of this type of annuity are*
26 *satisfied.*

27 *94778. (a) The board may adopt and enforce regulations that*
28 *are necessary, appropriate, or useful to interpret and implement*
29 *this chapter pursuant to Chapter 3.5 (commencing with Section*
30 *11340) of Part 1 of Division 3 of Title 2 of the Government Code.*
31 *Pending the adoption of those regulations, the board may adopt*
32 *emergency regulations that shall become effective immediately.*
33 *The adoption of the emergency regulations shall be subject to*
34 *Chapter 3.5 (commencing with Section 11340) of Part 1 of*
35 *Division 3 of Title 2 of the Government Code, and the emergency*
36 *regulations shall only be effective until June 30, 1999, or on the*
37 *effective date of the regulations adopted by the board to*
38 *implement this chapter, whichever occurs first, at which time the*
39 *emergency regulations shall be deemed to be repealed.*

1 ***(b) The board shall adopt regulations establishing a voluntary***
2 *arbitration process similar to that set forth in Article 6.2*
3 *(commencing with Section 7085) of Chapter 9 of Division 3 of*
4 *the Business and Professions Code for the resolution of disputes*
5 *between an institution approved to operate under this chapter*
6 *and a complainant or complainants.*

7 ***(c) The board may adopt regulations that provide for the***
8 *approval of courses offered to veterans, and for the approval and*
9 *supervision of institutions that offer courses to veterans, pursuant*
10 *to federal law.*

11 ***94779. The board shall make available to members of the***
12 *public, upon request, the nature and disposition of all complaints*
13 *on file with the board against an institution.*

14 ***94779.1. (a) The board shall work together with the staff of***
15 *the Joint Committee on Boards, Commissions, and Consumer*
16 *Protection, along with representatives of regulated institutions,*
17 *the Student Aid Commission, students, and other interested*
18 *parties to revise this chapter to streamline its provisions and*
19 *eliminate contradictions, redundancies, ambiguities, conflicting*
20 *provisions, and unnecessary provisions, including consideration*
21 *of having accreditation by the United States Department of*
22 *Education approved regional accrediting bodies replace some of*
23 *the board's approval requirements of degree-granting*
24 *institutions, educational programs, and instructors. In addition,*
25 *the board, in conjunction with these various entities, shall*
26 *evaluate the provisions of this chapter to determine what*
27 *additional changes are advisable to improve the effectiveness of*
28 *the state's regulation of private postsecondary and vocational*
29 *education, including, but not limited to, the need to regulate*
30 *out-of-state postsecondary institutions that offer educational*
31 *programs to California students via the Internet and the*
32 *feasibility of that regulation, and the type and timeliness of*
33 *information required to be provided to the board.*

34 ***(1) Within the first six months from the date when the powers,***
35 *authorities and responsibilities in this chapter are transferred to*
36 *the Board for Private Postsecondary and Vocational Education,*
37 *the board shall conduct studies and make recommendations to*
38 *the Legislature regarding all of the following:*

39 ***(A) The most efficient and effective regulation of***
40 *nondegree-granting, vocational and registered programs.*

1 (B) *The advisability of the state's reliance on state, national*
2 *and regional accreditation as part of the approval process.*

3 (C) *Article 5 (commencing with Section 94790) and the*
4 *development of a cost-based fee structure.*

5 (D) *Article 10 (commencing with Section 94931) and Article*
6 *13 (commencing with Section 94950) to eliminate impediments to*
7 *an efficient and effective enforcement program.*

8 (b) *The board shall objectively assess the cost of meeting its*
9 *statutory obligations, determine the staffing necessary to meet*
10 *those obligations, determine whether the current fee structure*
11 *allows for collection of revenue sufficient to support the*
12 *necessary staffing, and report that information to the Governor*
13 *through the annual budget process.*

14 (c) *The board shall continue to make additional improvements*
15 *to its data collection and dissemination systems as the state's*
16 *designated higher education data coordinator and information*
17 *clearinghouse, so that it will provide improved reporting of*
18 *information regarding the private postsecondary and vocational*
19 *education sector, and improved monitoring of reports, initial and*
20 *renewal applications, complaint and enforcement records, and*
21 *collection of fees among other information necessary to serve the*
22 *board's wide-ranging data management needs effectively.*

23 (1) *All institutions covered by this statute shall participate in*
24 *the Integrated Postsecondary Education Data System (IPEDS)*
25 *reporting system, and such participation shall be monitored by*
26 *the board.*

27 (2) *All institutions covered by this statute shall inform the*
28 *board of their participation in other local-, state-, or*
29 *federally-funded programs that assess the effectiveness of those*
30 *institutions' programs including, but not limited to, programs*
31 *funded by the Workforce Investment Act and the Persons with*
32 *Disabilities Act.*

33 94779.3. (a) *The board shall establish an expanded outreach*
34 *program for prospective and current private postsecondary and*
35 *vocational education students and high school students, to*
36 *provide them with information on how best to select*
37 *postsecondary or vocational schools, how to enter into contracts*
38 *and student enrollment agreements, how to protect themselves in*
39 *the postsecondary and vocational education marketplace, and*
40 *how to contact the commission for assistance if problems arise.*

1 (b) Notwithstanding subdivision (a), the board may not
2 establish an expanded outreach program pursuant to that
3 subdivision until the board makes findings that the board has
4 sufficient revenues to meet its current obligations and that the
5 cost of an outreach program will not further jeopardize the
6 board's ability to meet those obligations.

7 94779.4. (a) The board shall report to the Legislature, no
8 later than October 1, 2007, on its progress in accomplishing the
9 corrective actions necessary to resolve the deficiencies found in
10 the Operations Monitor's Report. In particular, the board shall
11 report on the:

12 (1) Status and timeliness of its complaint and enforcement.

13 (2) Status and timeliness of its application and renewal
14 processes and procedures.

15 (3) Condition of the Student Tuition Recovery Fund and the
16 status of any claims thereon.

17 (4) Status and timeliness of its various approval or
18 registration processes.

19 (5) Status and capabilities of its data processing and
20 dissemination system.

21 (6) Status of its outreach efforts to current and prospective
22 private postsecondary and vocational education students.

23 (7) Recommendations for improvement to its operations,
24 including any recommendations regarding revisions to this
25 chapter.

26 (b) Prior to January 1, 2008, the board shall prepare and
27 present to the Governor and the Legislature specific
28 recommendations on the following issues:

29 (1) The management and organization of the state's
30 responsibilities for the review and approval of private
31 postsecondary institutions in California. These recommendations
32 shall include a specific proposal for where to place the
33 administrative responsibilities for the review and approval of
34 private postsecondary institutions in California, and a specific
35 proposal to assure the on-going monitoring of the effectiveness of
36 this state responsibility.

37 (2) The annual funding level needed for the effective operation
38 of the state oversight agency for private postsecondary
39 institutions, and a proposed school licensure fee amount to
40 provide appropriate funding levels to support the effective

1 operation of the state agency responsible for this function. It is
2 the intent of the Legislature that the operations of this state
3 agency shall not be state funded and shall be operated solely
4 through the fees paid by the institutions.

5 (c) The Legislative Analyst's Office is requested to review the
6 operations and mandated responsibilities of the board, assess the
7 annual funding level needed by the board to effectively
8 implement these responsibilities, and present specific
9 recommendations to the board for appropriate annual school
10 licensure fee rates. This review and the resulting
11 recommendations shall be presented to the board prior to
12 October 1, 2007.

13 94779.5. (a) Any institution operating on December 31,
14 2006, with a full, conditional, or temporary approval to operate,
15 may continue to operate under the terms of that approval until
16 that full, conditional, or temporary approval to operate expires
17 or a subsequent action is taken by the board that affects that
18 approval to operate, whichever comes first.

19 (b) Each regulation in Division 7.5 (commencing with Section
20 70000) of Title 5 of the California Code of Regulations in effect
21 on December 31, 2006, shall be in full force and effect on and
22 after January 1, 2007, to the extent the regulation is consistent
23 with the relevant provisions in this chapter. The board may, by
24 emergency regulation, designate which regulations are
25 consistent with this chapter and which are not.

26
27 Article 5. Fees and Costs
28

29 94790. (a) The Private Postsecondary and Vocational
30 Education Administration Fund is continued in existence. All fees
31 collected pursuant to this section shall be credited to this fund
32 along with any interest on the money, for the administration of
33 this chapter. If the Legislature makes an appropriation for the
34 support of the board in the Budget Act of any fiscal year, the
35 amount for the support of the board expended from the fund
36 during the fiscal year shall not exceed the amount appropriated
37 by the Budget Act, unless that amount is modified in accordance
38 with the Budget Act.

1 ***(b) On and after January 1, 1998, a minimum of 50 percent of***
2 ***the funds appropriated to the board shall be used to cover the***
3 ***costs of enforcing all of the following:***

4 ***(1) Enforcing the act and the board's regulations by taking***
5 ***actions against violators while ensuring due process for all***
6 ***institutions.***

7 ***(2) Ensuring that independent onsite evaluations and random***
8 ***and targeted inspections and audits of institutions are conducted,***
9 ***and that students have easy access to information concerning***
10 ***their rights to contract cancellation, withdrawal, refunds, and***
11 ***remedies.***

12 ***(3) Mediating student complaints to achieve balanced***
13 ***outcomes for students and institutions.***

14 ***(c) (1) For the approval of private institutions operating***
15 ***under this chapter, the board shall charge an amount not to***
16 ***exceed the actual costs of approving or renewing the approval of***
17 ***the private institutions, including approval or renewal costs of***
18 ***branches and satellites. The board shall adopt a fee schedule for***
19 ***all institutions approved under this chapter, including the***
20 ***maximum amounts to be charged for an institution's initial***
21 ***application and annual renewal for its main location and***
22 ***individually for its branches and satellite locations.***

23 ***(2) The board may add or delete categories of fees related to***
24 ***work performed by the board and the maximum amount to be***
25 ***charged for each fee category added to the fee schedule. The fee***
26 ***schedule shall provide adequate resources for the board to***
27 ***implement this chapter effectively. It is the intent of the***
28 ***Legislature that the board shall adopt a fee schedule that reflects***
29 ***the size of the institution, with institutions enrolling a larger***
30 ***number of students being required to pay a larger annual fee***
31 ***than those with smaller student enrollments. The fee schedule,***
32 ***consistent with this section, shall contain provisions for***
33 ***application and annual fees assessed for each approved main***
34 ***campus, branch and satellite. The board shall annually present***
35 ***its proposed budget and fee schedule, penalty fees assessed for***
36 ***delinquent payments and additions and deletions of fee***
37 ***categories to the Department of Finance and the Joint***
38 ***Legislative Budget Committee for their review and approval as***
39 ***part of the annual budget process. The board shall annually***
40 ***publish a schedule of the current fees to be charged pursuant to***

1 *this section and shall make this schedule generally available to*
2 *the public. The fees may be increased annually, without any*
3 *additional review and approval by the Office of Administrative*
4 *Law.*

5 *94791. Any institution more than 30 days delinquent in the*
6 *payment of any fee or order for the recovery of costs and*
7 *expenses under Section 94792, may be assessed a penalty fee by*
8 *the board.*

9 *94792. If the board determines after an investigation that an*
10 *institution has violated this chapter, the board may order the*
11 *institution to pay the costs and expenses incurred in connection*
12 *with the investigation and any civil or administrative proceeding*
13 *involving the violation that was investigated, including charges*
14 *made by the Attorney General for his or her services, and any*
15 *expenses incurred by a district attorney. Before any order for the*
16 *payment of costs and expenses is made under this section, the*
17 *board shall provide the institution with written notice, including*
18 *notice of the institution's right to request a hearing within 15*
19 *days of service of the notice. If a hearing is not timely requested,*
20 *the board may order payment. If a hearing is requested, the*
21 *board shall comply with Section 94965, 94975, or 94980. Within*
22 *30 days after the effective date of the order, the board may*
23 *enforce the order as if it were a money judgment pursuant to*
24 *Title 9 (commencing with Section 680.10) of Part 2 of the Code*
25 *of Civil Procedure. Alternatively, the board may seek the costs*
26 *and expenses allowed under this section in a civil proceeding. An*
27 *institution shall not be required to pay the same costs and*
28 *expenses incurred in connection with the investigation and any*
29 *civil or administrative proceeding to more than one investigating*
30 *agency.*

31 *94793. The effective date of any statutory amendment to this*
32 *chapter affecting revenues payable to the board from any service*
33 *shall be immediate.*

34
35 *Article 6. General Standards for Institutional Approval for All*
36 *Postsecondary Education Institutions Approved Under This*
37 *Chapter*
38

39 *94800. All institutions approved under this chapter shall be*
40 *maintained and operated, or in the case of a new institution,*

1 *shall demonstrate that it will be maintained and operated, in*
2 *compliance with all of the following minimum standards:*

3 *(a) That the institution is financially capable of fulfilling its*
4 *commitments to its students.*

5 *(b) That upon satisfactory completion of study or training, the*
6 *student is given an appropriate degree, or certification by the*
7 *institution, indicating that the program or programs of*
8 *instruction have been satisfactorily completed by the student.*

9 *(c) That the institution provides instruction as part of its*
10 *educational program.*

11 94802. *(a) Except as otherwise exempted pursuant to Section*
12 *94739, each institution desiring to operate in this state shall*
13 *make application to the board, upon forms to be provided by the*
14 *board. The application shall include, as a minimum, at least all*
15 *of the following:*

16 *(1) A catalog published, or proposed to be published, by the*
17 *institution containing the information specified in the criteria*
18 *adopted by the board. The catalog shall include specific dates as*
19 *to when the catalog applies.*

20 *(2) Copies of media advertising and promotional literature.*

21 *(3) Copies of all student enrollment agreement or contract*
22 *forms and instruments evidencing indebtedness.*

23 *(4) The name and California address of a designated agent*
24 *upon whom any process, notice, or demand may be served. The*
25 *agent address may not be the same as the institution address.*

26 *(5) The information specified in Section 94808 regarding*
27 *annual reports by institutions.*

28 *(6) The institution's most current financial report as described*
29 *in Section 94806, and proof of insurance or certificate of liability*
30 *coverage.*

31 *(7) An application submitted by a nationally, regionally,*
32 *professional or program-specific accredited institution shall*
33 *include a copy of the certificate of accreditation issued by the*
34 *accrediting agency along with information specified in Section*
35 *94809 regarding notification requirements pertaining to*
36 *accrediting agency and audit reports.*

37 *(8) Copies of the institution's Articles of Incorporation,*
38 *By-Laws, Fictitious Name Statement, or other documents*
39 *substantiating ownership.*

1 (9) *If the institution is regulated by any other state licensing*
2 *agency, the institution shall have obtained and retained copies of*
3 *the approval of that agency.*

4 (b) *Each application shall be signed and certified under oath*
5 *by the owners of the school or, if the school is incorporated, by*
6 *the principal owners of the school (those who own at least 10*
7 *percent of the stock), or by the corporate officers or their*
8 *designee.*

9 (c) *Following review of the application and any other further*
10 *information submitted by the applicant, or required in conformity*
11 *with Article 8 (commencing with Section 94900), and any*
12 *investigation of the applicant as the board deems necessary or*
13 *appropriate, the board either shall grant or deny approval to*
14 *operate to the applicant.*

15 94804. (a) *As a condition of obtaining provisional approval*
16 *to operate and/or maintaining its approval to operate, an*
17 *institution offering any educational programs or educational*
18 *services subject to this article shall meet the following financial*
19 *resource requirements criteria in addition to the financial*
20 *requirements of Section 94806.*

21 (1) *Satisfy minimum standards prescribed by Section 94900.*

22 (2) *Provide the education, training, skill, and experience that*
23 *the institution, in any manner represented, would provide.*

24 (3) *Pay timely refunds as required by Section 94824.*

25 (b) (1) *In determining an institution's compliance with*
26 *subdivision (a), the board, at the institution's request, may*
27 *consider the financial resources of a parent corporation if the*
28 *parent corporation files with the board, and at all times complies*
29 *with, an irrevocable and unconditional agreement approved by*
30 *its board of directors that satisfies all of the requirements of*
31 *paragraph (2).*

32 (2) *The agreement described in paragraph (1) shall provide*
33 *that the parent corporation do all of the following:*

34 (A) *Consent to be sued in California.*

35 (B) *Consent to be subject to the administrative jurisdiction of*
36 *the board and the Student Aid Commission in connection with the*
37 *institution's compliance with this chapter.*

38 (C) *Appoint an agent for service of process in California and*
39 *all notices required by this chapter.*

1 (D) Agree to pay any refund, claim, penalty, or judgment that
2 the institution is obligated to pay.

3 (E) File financial reports, maintain financial records, and
4 permit the inspection and copying of financial records to the
5 same extent as is required of the institution.

6 (3) For the purposes of this subdivision, a “parent
7 corporation” means a corporation that owns more than 80
8 percent of the stock of the institution whose financial resources
9 are at issue.

10 (c) An institution shall not be considered financially
11 responsible under any of the following conditions:

12 (1) The institution fails to have available sufficient funds and
13 accounts receivable to pay all operating expenses due within 30
14 days. For the purpose of this paragraph, “funds” means cash or
15 assets that can be converted into cash within seven days.

16 (2) Under generally accepted accounting principles, the
17 institution had, at the end of its latest fiscal year, a ratio of
18 current assets to current liabilities of less than 1.25 to 1. For the
19 purpose of this paragraph, “current assets” does not include any
20 of the following: (A) intangible assets, including goodwill, going
21 concern value, organization expense, startup costs, long-term
22 prepayment of deferred charges, and nonreturnable deposits, or
23 (B) state or federal grant funds that are not the property of the
24 institution but are held for future disbursement for the benefit of
25 students. Unearned tuition shall be accounted for in accordance
26 with generally accepted accounting principles. When another
27 government agency requires an institution to file annual
28 financial audit prepared by a certified public accountant, that
29 agency’s current ratio standard may apply in lieu of the ratio
30 specified in this paragraph if the ratio of current assets to
31 current liabilities under that standard is 1 to 1 or greater.

32 (d) If the board determines that an institution is not financially
33 responsible, the board, under terms and conditions prescribed by
34 the board, may require the institution to submit for its latest
35 complete fiscal year and its current fiscal year, each of the
36 following:

37 (1) A financial audit of the institution conducted by a licensed
38 certified public accountant, in accordance with generally
39 accepted auditing standards.

1 (2) *The institution's financial plan for establishing financial*
2 *responsibility.*

3 (3) *Any other information requested by the board.*

4 (e) *Subdivision (d) does not prevent the board from taking any*
5 *other actions authorized under this chapter.*

6 94805. *The institution shall file annually with the board a*
7 *financial report prepared pursuant to Section 94806. The report*
8 *shall include the financial information required by Section 94855*
9 *and average monthly expenditures. Work papers for the audit*
10 *shall be retained for five years from the date of the audit report*
11 *and shall be made available to the board upon request after the*
12 *completion of the audit.*

13 94806. (a) *This section applies to every audit, review, and*
14 *statement prepared by an independent accountant and to every*
15 *financial report required to be prepared or filed by this chapter.*

16 (b) *Institutional audits and reviews of financial data, including*
17 *the preparation of financial statements, shall comply with all of*
18 *the following:*

19 (1) *An institution that collected seven hundred fifty thousand*
20 *dollars (\$750,000) or more in total student charges in its*
21 *preceding fiscal year shall file financial reports prepared in*
22 *accordance with generally accepted accounting principles*
23 *established by the American Institute of Certified Public*
24 *Accountants, and audited or reviewed by an independent*
25 *certified public accountant who is not an employee, officer, or*
26 *corporate secretary or member of the governing board of the*
27 *institution.*

28 (2) *An institution that collected less than seven hundred fifty*
29 *thousand dollars (\$750,000) in total student charges in its*
30 *preceding fiscal year shall file financial reports prepared in*
31 *accordance with generally accepted accounting principles*
32 *established by the American Institute of Certified Public*
33 *Accountants. These financial reports may be prepared by an*
34 *individual with sufficient training to adhere to the required*
35 *accounting principles.*

36 (3) *Financial reports prepared on an annual basis shall*
37 *include a balance sheet, statement of operations, statement of*
38 *cash-flow, and statement of retained earnings or capital.*
39 *Nonprofit institutions shall provide this information in the*

1 manner required under generally accepted accounting principles
2 for nonprofit organizations.

3 (4) The financial report shall establish whether the institution
4 complies with subdivision (a) of Section 94804 or subdivision (a)
5 of Section 94855, if applicable, and whether any of the
6 circumstances described in subdivision (b) of Section 94804 or
7 subdivision (b) of Section 94855, if applicable, exist.

8 (5) If an audit that is performed to determine compliance with
9 any federal or state student financial aid program reveals any
10 failure to comply with the requirements of the program, and the
11 noncompliance creates any liability or potential liability for the
12 institution, the financial report shall reflect the liability or
13 potential liability.

14 (6) Work papers for the financial statements shall be retained
15 for five years from the date of the reports, and shall be made
16 available to the board upon request after completion of the
17 report.

18 (c) Any audits shall be conducted in accordance with
19 generally accepted auditing standards, and shall include the
20 matters described in subdivision (d).

21 (d) If an audit is conducted, the accountant shall obtain an
22 understanding of the institution's internal financial control
23 structure, assess any risks, and report any material deficiencies
24 in the internal controls.

25 (e) Any audit or financial report shall contain a statement
26 signed by the individual who has prepared the report stating that
27 the institution has paid or has not paid to the board all amounts
28 owed under Section 94945. If the institution is a corporation that
29 is publicly traded on a national stock exchange, the submission
30 of the corporation's annual report shall be deemed to comply
31 with this section. The board shall be deemed an intended
32 beneficiary of that statement in any audit or financial report. An
33 institution that has not paid all amounts owed to the board under
34 Section 94945 shall report to the board within 30 days on its
35 plan to become current in these payments. This subdivision shall
36 not be construed to require the institution to prepare a separate
37 audit or report on the Student Tuition Recovery Fund.

38 94808. (a) Each institution approved to operate under this
39 chapter shall be required to participate in and report to the
40 United States Department of Education's Integrated

1 *Postsecondary Education Data System (IPEDS) through the state*
2 *higher education coordinating agency responsible for IPEDS*
3 *coordination, the following information for all educational*
4 *programs offered:*

5 *(1) The total number of students enrolled, by level of degree or*
6 *type of diploma program.*

7 *(2) The number of degrees and diplomas awarded, by level of*
8 *degree.*

9 *(3) The degree levels offered.*

10 *(4) Program completion rates.*

11 *(5) The schedule of tuition and fees required for each term,*
12 *program, course of instruction, or degree offered.*

13 *(6) Institutional financial information.*

14 *(b) If not included in the IPEDS reporting system, each*
15 *institution approved to operate under this chapter shall be*
16 *required to report the following information for all educational*
17 *programs offered:*

18 *(1) Institutions having a conditional approval status shall*
19 *submit an annual report reviewing their progress in meeting the*
20 *standards required for approval status.*

21 *(2) A statement indicating whether the institution is or is not*
22 *current on its payments to the Student Tuition Recovery Fund.*

23 *(3) If the institution participates in any federal student loan*
24 *program, the student loan default rate attributable to the*
25 *institution for each loan source for the two most recent years, as*
26 *preliminarily announced or finally determined by the United*
27 *States Department of Education, is 25 percent or more.*

28 *(4) If the institution participates in any student loan program,*
29 *the student loan default rate from each loan source attributable*
30 *to each main, branch and satellite of the institution for the two*
31 *most recent years.*

32 *(5) Any additional information that the board may prescribe.*

33 *(c) Program completion rates and placement data shall be*
34 *reported in accordance with the standards and criteria*
35 *prescribed by the board pursuant to paragraphs (1) to (4),*
36 *inclusive, of subdivision (a) of Section 94816 and Section 94859,*
37 *if applicable.*

38 *(d) Based on the review of information submitted to fulfill the*
39 *requirements of this section, the board may initiate a compliance*
40 *review and may place the institution on probation pursuant to*

1 subdivision (h) of Section 94901 and subdivision (i) of Section
2 94915, and may require evidence of financial stability and
3 responsibility pursuant to Sections 94804 and 94855, if
4 applicable.

5 94808.5. (a) Every institution shall file annually with the
6 board, on July 1 or another date designated by the board, a
7 report subscribed under penalty of perjury that contains all of
8 the following:

9 (1) The information described in subdivisions (a) and (b) of
10 Section 94854.

11 (2) The information described in paragraph (2) of subdivision
12 (a) of Section 94859.

13 (3) A statement that the information is documented as
14 provided in subdivision (c) of Section 94854 and subdivision (b)
15 of Section 94859.

16 (4) Financial information demonstrating compliance with
17 Section 94855.

18 (5) Any additional information that the board may prescribe.

19 (b) The board shall maintain each report for 10 years and
20 shall provide copies of the reports to any person upon request.

21 (c) Based on the review of the information submitted pursuant
22 to this section, the board may initiate a compliance review, may
23 take action including placing the institution on probation as
24 provided in Section 94878, or may require evidence of
25 compliance with this article in a form satisfactory to the board.

26 (d) The board shall develop standards and procedures for
27 submission by institutions of the information pursuant to this
28 section electronically or on computer disk, in a standardized
29 format.

30 (e) If the institution uses any of the categories identified in
31 subparagraph (B) of paragraph (2) of subdivision (k) of, or
32 subdivision (n) or (o) of, Section 94854 in determining
33 compliance with that section, the information submitted pursuant
34 to this section shall include the number of students that were
35 included in each of the categories identified in those provisions.

36 94809. Each institution approved under this chapter shall
37 provide the board with copies of all accrediting agency reports,
38 including preliminary reports and reports of visiting committees,
39 all audit reports prepared by the United States Department of
40 Education and student loan guaranty agencies, including all

1 preliminary reports, and the institution's written responses to the
2 reports described in this section, if applicable. The institution
3 shall provide a copy of each report within 15 days of the
4 institution's receipt of the report and a copy of the institution's
5 response within 15 days of the institution's submission of its
6 response.

7 94810. (a) No institution shall offer any program of
8 instruction to any person, or receive any consideration from any
9 person for a program of instruction, except pursuant to a written
10 agreement as described in this section. Every agreement for a
11 program of instruction shall provide the following:

12 (1) If the student is not a resident of California or is the
13 recipient of third-party payor tuition and course costs, such as
14 workforce investment vouchers or rehabilitation funding, a clear
15 statement that the student is not eligible for protection under and
16 recovery from the Student Tuition Recovery Fund.

17 (2) In underlined capital letters on the same page of the
18 contract or agreement in which the student's signature is
19 required, the total amount that the student is obligated to pay for
20 all fees, charges, and expenses separately itemized that must be
21 paid to complete the program of instruction and all other
22 services and facilities furnished or made available to the student
23 by the school, including any charges made by the school for
24 tuition, room and board, books, materials, supplies, shop and
25 studio fees, and any other fees and expenses that the student will
26 incur upon enrollment.

27 (A) The total amount charged for each item of equipment shall
28 be separately stated. The amount charged for each item of
29 equipment shall not exceed the equipment's fair market value.
30 The institution shall have the burden of proof to establish the
31 equipment's fair market value.

32 (B) The total amount shall be underlined and capitalized and
33 shall appear immediately above the following notice, which shall
34 be printed above the space on the agreement that is reserved for
35 the student's signature:

36 "YOU ARE RESPONSIBLE FOR THIS AMOUNT. IF YOU
37 GET A STUDENT LOAN, YOU ARE RESPONSIBLE FOR
38 REPAYING THE LOAN AMOUNT PLUS ANY INTEREST."

39 (3) A list of any charges and deposits that are nonrefundable
40 clearly identified as nonrefundable charges.

1 (4) *The name and address of the school and the addresses*
2 *where instruction will be provided.*

3 (5) *The name and description of the program of instruction,*
4 *including the total number of credits, classes, hours, or lessons*
5 *required to complete the program of instruction.*

6 (6) *A clear and conspicuous statement that the agreement or*
7 *contract is a legally binding instrument when signed by the*
8 *student and accepted by the school.*

9 (7) *A clear and conspicuous caption, “BUYER’S RIGHT TO*
10 *CANCEL” under which it is explained in detail that the student*
11 *has the right to cancel the enrollment agreement, as provided in*
12 *Section 94869, and obtain a refund, the form and means of notice*
13 *that the student should use in the event that he or she elects to*
14 *cancel the enrollment agreement, and the title and address of the*
15 *school official to whom the notice should be sent or delivered.*

16 (8) *The student’s right to withdraw from the program of*
17 *instruction and obtain a refund and an explanation of refund*
18 *rights and of how the amount of the refund will be determined*
19 *including a hypothetical example. A clear statement of the refund*
20 *policy shall be written in plain English.*

21 (9) *The signature of the student under the following statement*
22 *that is presented in 12-point boldface or larger print: “My*
23 *signature below certifies that I have read, understood, and*
24 *agreed to my rights and responsibilities, the catalog and the*
25 *institution’s cancellation and refund policies.”*

26 (10) *On the first page of the agreement or contract, in*
27 *12-point boldface print or larger, the following statement:*

28 *“Any questions or problems concerning this school which have*
29 *not been satisfactorily answered or resolved by the school should*
30 *be directed to the board for Private Postsecondary and*
31 *Vocational Education, (address), Sacramento, California 95814*
32 *or (Internet Web address).”*

33 (11) *A statement of the amount that the student will be*
34 *assessed for paying the state assessment amount for the Student*
35 *Tuition Recovery Fund.*

36 (b) *All contracts and enrollment agreements signed by the*
37 *student shall be written in language that is capable of being*
38 *easily understood. If English is not the primary language spoken*
39 *by the student, the student shall have the right to obtain a clear*

1 *explanation of the terms and conditions of the agreement and all*
2 *cancellation and refund policies in his or her primary language.*

3 *(c) The institution shall provide a summary of the financial*
4 *resources encumbered by the student including, but not limited*
5 *to, public and private sources, interest rates, and total repayment*
6 *obligation.*

7 *94810.5. No student may waive any provision of this article.*
8 *Any waiver or limitation of any substantive or procedural right*
9 *or remedy is in violation of this section and is void and*
10 *unenforceable.*

11 *94811. (a) Any school or institution governed by this chapter*
12 *extending credit or lending money to any person for tuition, fees,*
13 *or any charges whatever for educational services to be rendered*
14 *or furnished shall cause any note, instrument, or other evidence*
15 *of indebtedness taken in connection with that loan or extension of*
16 *that credit to be conspicuously marked on the face thereof with*
17 *the following notice:*

18 *“NOTICE-ANY HOLDER OF THIS CONSUMER CREDIT*
19 *CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES*
20 *THAT THE DEBTOR COULD ASSERT AGAINST THE SELLER*
21 *OF GOODS OR SERVICES OBTAINED PURSUANT TO THIS*
22 *CONTRACT OR WITH THE PROCEEDS HEREOF,*
23 *RECOVERY UNDER THIS CONTRACT BY THE DEBTOR*
24 *SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR*
25 *UNDER THIS CONTRACT.”*

26 *In the event the school or institution fails to do so, it shall be*
27 *liable for any damage or loss suffered or incurred by any*
28 *subsequent assignee, transferee, or holder of that evidence of*
29 *indebtedness on account of the absence of that notification.*

30 *(b) Notwithstanding the presence or absence of that*
31 *notification and notwithstanding any agreement in which the*
32 *student waives the right to assert any claim or defense, the*
33 *school or institution making that loan or extending that credit*
34 *and the transferee, assignee, or holder of that evidence of*
35 *indebtedness, shall be subject to all defenses and claims that*
36 *could be asserted against the school or institution that was to*
37 *render or furnish those educational services by any party to that*
38 *evidence of indebtedness or by the person to whom these*
39 *educational services were to be rendered or furnished up to the*
40 *amount remaining to be paid thereon.*

1 (c) Institutions that participate in federal student assistance
2 programs and that comply with the financial disclosure and
3 notification requirements for those programs shall be deemed to
4 be in compliance with the standards prescribed by this section.

5 94812. Any written contract or agreement signed by a
6 prospective student shall not become operative until the student
7 attends the first class or session of instruction.

8 94813. (a) When a person executes an agreement obligating
9 that person to pay any money to an institution for a course
10 program of instruction or related equipment, the institution shall
11 provide the person with a document containing only the
12 following notice:

13 “NOTICE OF STUDENT RIGHTS (12-point bold type)

14 “1. You may cancel your contract for school, without any
15 penalty or obligations on the fifth business day following your
16 first class session as described in the Notice of Cancellation form
17 that will be given to you at (insert “the first class you go to” or
18 “with the first lesson in a home study or correspondence
19 course,” whichever is applicable). A different cancellation policy
20 applies for home study or correspondence courses. Read the
21 Notice of Cancellation form for an explanation of your
22 cancellation rights and responsibilities. If you have lost your
23 Notice of Cancellation form, ask the school for a sample copy.

24 “2. After the end of the cancellation period, you also have the
25 right to stop school at any time, and you have the right to receive
26 a refund for the part of the course not taken. Your refund rights
27 are described in the contract. If you have lost your contract, ask
28 the school for a description of the refund policy.

29 “3. If the school closes before you graduate, you may be
30 entitled to a refund. Contact the Board for Private Postsecondary
31 and Vocational Education at the address and telephone number
32 printed below for information.

33 “4. If you have any complaints, questions, or problems that you
34 cannot work out with the school, write or call the Board for
35 Private Postsecondary and Vocational Education:

36 (insert address and telephone number of the Board for Private
37 Postsecondary and Vocational Education)”

38 (b) Except as otherwise provided in subdivision (a), the notice
39 required by subdivision (a) shall be printed in 10-point type in
40 English and, if any solicitation or negotiation leading to the

1 *agreement for a course of instruction was in a language other*
2 *than English, in that other language.*

3 *(c) A copy of the notice, in each language in which the notice*
4 *was printed pursuant to subdivision (b), shall be posted at all*
5 *times in a conspicuous place at the main entrance of the*
6 *institution, in each admissions office, and in each room used for*
7 *instruction. The board may prescribe the size and format of the*
8 *posted notice. This subdivision does not apply to an institution*
9 *that exclusively offers correspondence or home study courses.*

10 *(d) Upon request, the institution shall provide a student with a*
11 *copy of a Notice of Cancellation form, a written description of*
12 *the student's refund rights, a copy of the contract executed by the*
13 *student, a copy of documents relating to loans or grants for the*
14 *student, and a copy of any document executed by the student.*

15 *(e) The board may provide for the inclusion of additional*
16 *information in the notice set forth in subdivision (a).*

17 *94814. (a) The institution shall provide to students and other*
18 *interested persons, prior to enrollment, a catalog or brochure*
19 *containing at a minimum the following information:*

20 *(1) Descriptions of the instruction provided under each course*
21 *offered by the institution including the length of programs*
22 *offered.*

23 *(2) The number of credit hours or clock hours of instruction or*
24 *training per unit or units required for completion of the*
25 *educational degree or certificate program.*

26 *(3) The attendance, dropout, and leave-of-absence policies.*

27 *(4) The faculty and their qualifications.*

28 *(5) The schedule of tuition payments, fees, and all other*
29 *charges and expenses necessary for the term of instruction and*
30 *the completion of the course of study.*

31 *(6) The cancellation and refund policies.*

32 *(7) For institutions that participate in federal and state*
33 *financial aid programs, all consumer information that the*
34 *institution is required to disclose to the student.*

35 *(8) All other material facts concerning the institution and the*
36 *program or course of instruction that are reasonably likely to*
37 *affect the decision of the student to enroll, as prescribed by rules*
38 *and regulations adopted by the board.*

39 *(9) A definition of "normal business hours" of institution*
40 *operation.*

1 (10) A description of the institution's placement assistance, if
2 any.

3 (b) No written contract signed by the student shall be
4 enforceable unless the information specified in subdivision (a)
5 has been disclosed to the student.

6 94815. If a state board, bureau, department, or agency has
7 established the minimum number of classes or class hours or the
8 minimum criteria of a course of instruction necessary for
9 licensure in an occupation and an institution offers a course of
10 instruction differing from the state entity's minimum
11 requirements, the institution shall disclose orally and in writing
12 the state entity's minimum requirements and how the course of
13 instruction differs from those criteria. The institution shall make
14 this disclosure before a prospective student executes an
15 agreement obligating that person to pay any money to the
16 institution for the course of instruction.

17 94816. (a) Each institution offering a degree or diploma
18 program designed to prepare students for a particular
19 vocational, trade, or career field shall provide to each
20 prospective student a school performance fact sheet disclosing
21 all of the following information:

22 (1) The number and percentage of students who begin the
23 institution's program and successfully complete the entire
24 program as originally scheduled. The rate shall be calculated by
25 determining the percentage of students enrolled in the program
26 who were originally scheduled, at the time of enrollment, to
27 complete the program in a given calendar year and who
28 successfully completed the program as scheduled. If the
29 institution has offered the program of instruction for less than
30 one calendar year, the following statement shall be included on
31 the school performance fact sheet: "This program is new. We are
32 not able to tell you how many students graduate, how many
33 students find jobs, or how much money you can earn after
34 finishing this program."

35 (2) The passage rates of graduates in the program for the most
36 recent calendar year that ended not less than six months prior to
37 the date of disclosure on any licensure or certificate examination
38 required by the state for employment in the particular vocational,
39 trade, or career field and for any licensing preparation

1 examination as required under subdivision (a) of Section 94734
2 for which data is available.

3 (3) The number and percentage of students who begin the
4 program and secure employment in the field for which they were
5 trained. In calculating this rate, the institution shall consider as
6 not having obtained employment, any graduate for whom the
7 institution does not possess evidence, documented in his or her
8 file, showing that he or she has obtained employment in the
9 occupation for which the program is offered.

10 (4) The average annual starting wages or salary of graduates
11 of the institution's program, if the institution makes a claim to
12 prospective students regarding the starting salaries of its
13 graduates, or the starting salaries or local availability of jobs in
14 a field. The institution shall disclose to the prospective student
15 the objective sources of information necessary to substantiate the
16 truthfulness of the claim.

17 (b) Each school that offers or advertises placement assistance
18 for any course of instruction shall file with the board its
19 placement statistics for the 12-month period or calendar year
20 immediately preceding the date of the school's application for
21 annual review for every program of instruction.

22 (c) The board shall develop standards and criteria to be used
23 by each institution in determining the statistical information
24 required by this section.

25 (d) In addition to the fact sheet required by subdivision (a),
26 each institution offering an educational program under this
27 chapter shall provide to each prospective student a statement in
28 at least 12-point type that contains the following statement:

29 "NOTICE CONCERNING TRANSFERABILITY OF CREDIT
30 UNITS AND DEGREES EARNED AT OUR SCHOOL

31 Credit Units you earn in our ____ (fill in name of program)
32 program in most cases will probably not be transferable to any
33 other college or university. For example, if you entered our
34 school as a freshman, you will still be a freshman if you enter
35 another college or university at some time in the future even
36 though you earned units here at our school. In addition, if you
37 earn a degree, diploma, or certificate in our ____ (fill in name of
38 program) program, in most cases it will probably not serve as a
39 basis for obtaining a higher level degree at another college or
40 university."

1 (e) The institution may include any affirmative statements of
2 actual transfers as reported in their most recent IPEDS or CPEC
3 report. The disclosures required by this section shall be signed
4 by the institution and the student and be dated. If the solicitation
5 or negotiation leading to the agreement for a course of
6 instruction was in a language other than English, the disclosures
7 shall be in that other language.

8 (f) An institution shall maintain records of the name, address,
9 and telephone number of students who enroll in a program of
10 instruction, including students who begin the program and
11 students who cancel pursuant to Section 94867, and of students
12 who graduate from that program of instruction. An institution
13 shall inquire whether students who complete a program of
14 instruction obtain employment starting within six months of
15 completing the program in the occupation to which the program
16 of instruction is represented to lead and continue in employment
17 for a period of at least 60 days. The inquiry shall be documented
18 by a list indicating each student's name, address, and telephone
19 number; the employer's name, address, and telephone number;
20 the name, address, and telephone number of the person who
21 provided the information regarding the student's employment to
22 the institution; the name, title, or description of the job; the date
23 the student obtained employment; the duration of the student's
24 employment; information concerning whether the student was
25 employed full-time or part-time including the number of hours
26 worked per week; and the names, addresses, and telephone
27 numbers of students who choose not to seek employment and
28 instead enroll in another program to earn a higher degree, as
29 well as the name and address of the institution in which they
30 enroll. If the student is self-employed, the list shall include
31 reliable indices of self-employment such as contracts, checks for
32 payment, tax returns, social security contribution records,
33 records of accounts receivable or customer payments, invoices
34 for business supplies, rent receipts, appointment book entries,
35 business license, or any other information required by the board
36 that is a reliable indicator of self-employment.

37 (g) The board shall take into consideration the character of
38 the educational program in determining whether specific
39 programs may be excluded from application of this section. Any

1 *exclusions must be publicly disclosed pursuant to paragraph (8)*
2 *of subdivision (a) of Section 94814.*

3 *94818. (a) Every institution shall designate and maintain an*
4 *agent for service of process within this state and provide the*
5 *name, address, and telephone number of the agent to the board.*
6 *The board shall furnish the agent's name, address, and telephone*
7 *number to any person upon request. The address provided for the*
8 *agent for service of process shall not be a post office box and it*
9 *shall not be the same address as the institution's primary*
10 *administrative location.*

11 *(b) If an institution is not operating in California when it*
12 *applies for approval to operate, the institution shall set forth the*
13 *name, address, and telephone number of its agent for service of*
14 *process in the institution's application.*

15 *(c) If an institution fails to designate or maintain an agent for*
16 *service of process pursuant to subdivision (a) and if service on*
17 *the institution cannot reasonably be effected in the manner*
18 *provided in Section 415.10, 415.20, 415.30, or 415.40 of the*
19 *Code of Civil Procedure, the institution may be served by leaving*
20 *a copy of the process or any other document in an office of the*
21 *board and by sending, by first-class mail, a notice of the service*
22 *upon the board and a copy of the process or other document to*
23 *the institution at its last address on file with the board. Service in*
24 *this manner shall be deemed complete on the 10th day after that*
25 *mailing to the institution. Proof of service may be made by a*
26 *declaration showing compliance with this subdivision.*

27 *(d) Every institution shall inform the board in writing of any*
28 *change in the name or address of the institution's agent for*
29 *service of process. Until the institution serves the board with a*
30 *written notice of change in the agent's name or address, the*
31 *institution shall be deemed to have consented to the board's*
32 *service of all documents, including administrative and judicial*
33 *notices and pleadings, at the address of the agent for service of*
34 *process last designated by the institution in writing to the board.*

35 *94819. The institution shall provide the student with two*
36 *cancellation forms at the first class attended by the student or*
37 *with the first lesson in a distance learning course submitted by*
38 *the student. The form shall be completed in duplicate, captioned*
39 *"Notice of Cancellation," and shall contain the following*
40 *statement:*

1 “Notice of Cancellation _____
2 (Date) (Enter date of first class, date first lesson received, or
3 date first lesson was mailed, whichever is applicable)

4 “You may cancel this contract for school, without any penalty
5 or obligation by the date stated below.

6 “If you cancel, any payment you have made and any negotiable
7 instrument signed by you shall be returned to you within 30 days
8 following the school’s receipt of your cancellation notice.

9 “But, if the school gave you any equipment, you must return
10 the equipment within 30 days of the date you signed a
11 cancellation notice. If you do not return the equipment within this
12 30-day period, the school may keep an amount out of what you
13 paid that equals the cost of the equipment. The total amount
14 charged for each item of equipment shall be separately stated.
15 The amount charged for each item of equipment shall not exceed
16 the equipment’s fair market value. The institution shall have the
17 burden of proof to establish the equipment’s fair market value.
18 The school is required to refund any amount over that as
19 provided above, and you may keep the equipment.

20 “To cancel the contract for school, mail or deliver a signed
21 and dated copy of this cancellation notice, or any other written
22 notice, or send a telegram to:

23 _____, at
24 (name of institution)

25 _____.
26 (address of institution)

27 “NOT LATER THAN _____
28 (Enter midnight of the date that is the fifth business day
29 following the day of the first class or the day the first lesson was
30 received; or, if the program is fifty or fewer days, midnight of the
31 date that is one business day for every 10 days of scheduled
32 program length, rounded up for any fractional increment thereof;
33 or, if the lesson was sent by mail, the eighth business day
34 following the day of mailing, whichever is applicable)

35 “I cancel the contract for school.

36 _____ (Date)

37 _____ (Student’s signature)

38 “REMEMBER, YOU MUST CANCEL IN WRITING. You do
39 not have the right to cancel by just telephoning the school or by
40 not coming to class.

1 *“If you have any complaints, questions, or problems which you*
2 *cannot work out with the school, write or call the Board for*
3 *Private Postsecondary and Vocational Education:*

4
5

(insert address and telephone number of the Board for Private
6 *Postsecondary and Vocational Education)”*

7 94820. (a) *The institution shall have and maintain the policy*
8 *set forth in this article for the refund of the unused portion of*
9 *tuition fees and other charges if the student does not register for*
10 *the period of attendance or withdraws therefrom at any time*
11 *prior to completion of the courses, or otherwise fails to complete*
12 *the period of enrollment. The institutional refund policy for*
13 *students who have completed 60 percent or less of the course of*
14 *instruction shall be a pro rata refund. For the purpose of this*
15 *provision, the maximum fee retained by the institution for*
16 *application and registration fees, combined, shall be no more*
17 *than one hundred dollars (\$100.00).*

18 (b) *Except as provided in subdivision (c), the refund shall be*
19 *calculated as follows:*

20 (1) *Deduct a registration fee not to exceed one hundred*
21 *dollars (\$100) from the total tuition charge.*

22 (2) *Divide this figure by the number of hours in the program.*

23 (3) *The quotient is the hourly charge for the program.*

24 (4) *The amount owed by the student for the purposes of*
25 *calculating a refund is derived by multiplying the total hours*
26 *attended by the hourly charge for instruction plus the amount of*
27 *the registration fee specified in paragraph (1).*

28 (5) *The refund shall be any amount in excess of the figure*
29 *derived in paragraph (4) that was paid by the student.*

30 (c) *For an educational service offered by distance learning,*
31 *the refund shall be calculated as follows:*

32 (1) *Deduct a registration fee not to exceed one hundred (\$100)*
33 *from the total tuition charge.*

34 (2) *Divide this figure by the number of lessons in the program.*

35 (3) *The quotient is the per-lesson charge.*

36 (4) *The amount owed by the student for the purposes of*
37 *calculating a refund is derived by multiplying the total number of*
38 *lessons received by the per-lesson charge calculated in*
39 *paragraph (3) plus the amount of the registration fee specified in*
40 *paragraph (1).*

1 (5) *The refund shall be any amount in excess of the figure*
2 *derived in paragraph (4) that was paid by the student.*

3 (d) *Institutions subject to federal refund policies shall refund*
4 *to the student the amount of the unused portion of tuition fee and*
5 *other charges based upon the calculation that is monetarily*
6 *equivalent to or greater than the results achieved by the pro rata*
7 *calculations described in subdivisions (a), (b), and (c).*

8 94822. *Institutions, for all students, without penalty or*
9 *obligation, shall refund 100 percent of the amount paid for*
10 *institutional charges, less a reasonable deposit or application fee*
11 *not to exceed one hundred dollars (\$100), if notice of*
12 *cancellation is made prior to or on the first day of instruction. If*
13 *the first lesson in a distance learning program is sent to the*
14 *student by mail, the institution shall send it by first-class mail,*
15 *postage prepaid, documented by a certificate of mailing, and the*
16 *student shall have the right to cancel until midnight of the eighth*
17 *business day after the first lesson was mailed. The institution*
18 *shall advise each student that any notification of withdrawal or*
19 *cancellation and any request for a refund is required to be made*
20 *in writing.*

21 94823. *The institution shall provide a written statement*
22 *containing its refund policy, together with examples of the*
23 *application of the policy, to each student prior to signing the*
24 *enrollment contract, and shall make its policy known to currently*
25 *enrolled students.*

26 94824. *The institution shall pay or credit refunds due on a*
27 *reasonable or timely basis, not to exceed 30 days following the*
28 *date upon which the student's withdrawal has been determined.*

29 94825. (a) *The institution shall publish a current schedule of*
30 *all student charges, a statement of the purpose for those charges,*
31 *and a statement of the cancellation and refund policies with*
32 *examples of the application of the policies, and shall provide the*
33 *schedule to all current and prospective students prior to*
34 *enrollment. The schedule shall clearly indicate and differentiate*
35 *all mandatory and optional student charges. The institution shall*
36 *include a clear statement written in English describing the*
37 *procedures that a student is required to follow to cancel the*
38 *contract or agreement and obtain a refund. If the institution*
39 *solicited the student or negotiated the agreement in a language*
40 *other than English, the notice to the student shall be in that same*

1 *language. The schedule shall specify the total costs of attendance*
2 *which shall include, but not necessarily be limited to, tuition,*
3 *fees, assessments for the Student Tuition Recovery Fund,*
4 *equipment costs, housing, transportation, books, necessary*
5 *supplies, materials, shop and studio fees, and any other fees and*
6 *expenses that the student will incur upon enrollment. The*
7 *schedule shall clearly identify all charges and deposits that are*
8 *nonrefundable.*

9 *(b) The schedule shall also contain both of the following:*

10 *(1) A statement, to be provided by the board, specifying that it*
11 *is a state requirement that a resident California student who pays*
12 *his or her own tuition, either directly or through a loan, is*
13 *required to pay a state-imposed fee for the Student Tuition*
14 *Recovery Fund.*

15 *(2) A statement, to be provided by the board, describing the*
16 *purposes, operation, and eligibility requirements of the Student*
17 *Tuition Recovery Fund.*

18 *94826. Where the refund calculations set forth in this article*
19 *cannot be utilized because of the unique way in which an*
20 *educational program is structured, the board shall determine the*
21 *details of an alternative refund policy, by regulation, and shall*
22 *take into consideration the contract for educational services*
23 *entered into with the student, as well as the length and character*
24 *of the educational program in determining standards for refunds.*
25 *The decision of the board shall be final. This section does not*
26 *apply to the refunds subject to Sections 94869 and 94870.*

27 *94828. In addition to withholding institutional services as*
28 *described in Section 94948, an institution may withhold a*
29 *student's transcript or grades if the student is in default on a*
30 *student tuition contract. If the student has made partial payment*
31 *of his or her tuition obligation, the institution may only withhold*
32 *that portion of the grades or transcript that corresponds on a pro*
33 *rata basis to the amount of tuition or loan obligation the student*
34 *has not paid. If the course of study consists of only one course,*
35 *the institution may withhold the grades or the transcript until the*
36 *tuition or loan obligation is paid in full.*

37 *94829. (a) Adequate and accurate records shall be*
38 *maintained by the institution, in accordance with regulations*
39 *adopted by the board, and satisfactory standards shall be*
40 *enforced relating to attendance, progress, and performance.*

1 ***(b) The institution shall maintain current records for a period***
2 ***of not less than five years at its principal place of business in***
3 ***California, that are immediately available during normal***
4 ***business hours for inspection and copying by the board or the***
5 ***Attorney General and showing all of the following:***

6 ***(1) The name and addresses, both local and home, of each of***
7 ***its students.***

8 ***(2) The programs of study offered by the institution.***

9 ***(3) The names and addresses of its faculty, together with a***
10 ***record of the educational qualifications of each.***

11 ***(4) The degrees and honorary degrees and certifications***
12 ***granted, the date of granting, together with the curricula upon***
13 ***which the degrees and honorary degrees and certifications were***
14 ***based.***

15 ***94835. (a) The board shall review and investigate all***
16 ***institutions, and may review and investigate all programs, and***
17 ***programs of instruction approved under this chapter.***
18 ***Consideration in the scheduling of reviews and investigations***
19 ***shall be afforded to student complaints and information collected***
20 ***by the Attorney General, the Student Aid Commission, any board***
21 ***or bureau within the Department of Consumer Affairs, or any***
22 ***other federal, state, or local agency.***

23 ***(1) The board shall conduct periodic unannounced reviews***
24 ***and investigations of institutions to determine compliance with***
25 ***this chapter.***

26 ***(2) If there is reasonable cause to believe that there has been***
27 ***a violation by a private postsecondary educational institution of***
28 ***the standards prescribed by this chapter, the board shall conduct***
29 ***an investigation of the institution.***

30 ***(A) The board may direct staff and any other authorized***
31 ***person or persons to investigate alleged violations.***

32 ***(B) The board reserves the right to impanel a visiting***
33 ***committee to review allegations of noncompliance committed by***
34 ***an institution. The scope and composition of the visiting***
35 ***committee shall be at the discretion of the board.***

36 ***(b) At the board's request in connection with an investigation***
37 ***to determine compliance with this chapter, an institution, during***
38 ***its normal business hours, shall immediately make available for***
39 ***inspection and copying all records required to be maintained by***
40 ***this chapter or that relate to the institution's compliance with***

1 *this chapter. The institution shall permit the board's*
2 *representatives to have immediate access to the institution's*
3 *primary administrative location and sites of instruction during*
4 *the institution's normal business hours to examine and copy*
5 *these records, to inspect the institution's physical facilities,*
6 *equipment, library and other learning resources, and to*
7 *interview school administrators, faculty, and students.*

8 *(c) Within a reasonable time after the commencement of the*
9 *investigation required in subdivision (a) and (b), the board shall*
10 *conclude its investigation and take action against the institution*
11 *involved, as appropriate.*

12 *94840. At least 90 days prior to the expiration of an approval*
13 *to operate, the institution shall complete and file with the board*
14 *an application form for renewal of its approval to operate. The*
15 *renewal application need only contain a description of any*
16 *changes made by the institution since the time its last application*
17 *was reviewed by the board. Changes that are considered*
18 *amendments to the current approval shall be submitted*
19 *separately on forms prescribed by the board with the applicable*
20 *fees. The renewal application may be reviewed and acted upon*
21 *as provided in Sections 94802, 94804, and 94835, and Sections*
22 *94900, 94901, or 94915, whichever is applicable.*

23 *94842. If a review and decision on a renewal application*
24 *submitted pursuant to Section 94840 cannot be completed by the*
25 *board prior to the expiration of the institution's current pending*
26 *approval, that expiration date shall be extended until the date*
27 *that the board notifies the institution of its decision.*

28 *94846. The approval to operate shall be issued to the owners*
29 *or the governing body of the applicant institution, and shall be*
30 *nontransferable. Any person that makes a proper application and*
31 *complies with this chapter and each standard and regulation*
32 *pertaining to this chapter shall be qualified to receive an*
33 *approval to operate or an approval of the transfer of ownership.*
34 *Institution status and compliance with this chapter shall continue*
35 *to apply to an institution notwithstanding a change in the*
36 *institution's ownership, name, or identification number.*

37 *(a) If a shift in control or change of ownership of an institution*
38 *occurs, an application for a new approval to operate for the*
39 *institution under the changed ownership or control shall be filed*
40 *at least 30 days prior to the shift in control or change in*

1 *ownership. Whenever an institution is operated at different*
2 *locations, an application for approval shall be filed for each*
3 *location.*

4 *(b) The application for approval to operate submitted in*
5 *conjunction with a change of ownership may include pertinent*
6 *portions of the institution's previous application prepared in*
7 *connection with programs or courses of instruction that are*
8 *changed or affected by the change in ownership.*

9 *(c) No application for ownership or transfer of ownership*
10 *shall be approved for any applicant that has been found*
11 *previously in any judicial or administrative proceeding to have*
12 *violated this chapter, or if there exists any of the grounds for*
13 *denial set forth in Section 480 of the Business and Professions*
14 *Code.*

15 *(d) No change in ownership of the institution shall be made*
16 *until the application is approved. If an application for a change*
17 *in ownership or control is not timely filed as required by this*
18 *section, the institution's approval to operate shall terminate.*

19 *(e) For the purposes of this section, a change in ownership*
20 *occurs when there is a change of control of the institution, or*
21 *where a person that previously did not own at least 25 percent of*
22 *the stock or controlling interest of an institution or its parent*
23 *corporation, acquires ownership of at least 25 percent of the*
24 *stock of the institution or its parent corporation, or when a*
25 *for-profit business converts to nonprofit corporation status or*
26 *forms a nonprofit corporation as a subsidiary to provide the*
27 *educational services for which the for-profit business is approved*
28 *to operate.*

29 *(f) The institution shall be required to notify the board, and*
30 *provide substantiating documentation, that the agreement for the*
31 *change of ownership has been executed.*

32 *94848. An institution may not claim an exception if the board*
33 *finds that the institution adopted a form of organization or*
34 *method of operation for the purpose of avoiding any provision of*
35 *this chapter.*

36 *94848.3. (a) No institution shall establish a branch or*
37 *satellite campus unless the board approves the branch or*
38 *satellite campus before any students are enrolled for instruction,*
39 *or any instruction is offered, at that campus.*

1 ***(b) The board shall not approve a branch or satellite campus***
2 ***if any of the following conditions exist:***

3 ***(1) The institution or the branch or satellite campus fail to***
4 ***satisfy all of the standards and requirements of Sections 94900.***

5 ***(2) The institution proposes to offer a program of instruction***
6 ***at the branch or satellite campus that could not be offered at***
7 ***another site operated by the institution because of the***
8 ***institution's failure to satisfy the standards prescribed in Section***
9 ***94900.***

10 ***(3) If the institution participates in any student loan program,***
11 ***the student loan default rate attributable to the institution for***
12 ***each loan source for the two most recent years is 25 percent or***
13 ***more.***

14 ***(4) The establishment of a branch or satellite campus would,***
15 ***in any manner, facilitate the institution's avoidance or evasion of***
16 ***this chapter or of any state or federal law applicable to a student***
17 ***financial aid program in which the institution participates.***

18 94848.5. ***(a) If a program of instruction is based on a***
19 ***sequence of classes, class sessions, or lessons and the learning***
20 ***experience to be derived from any class, class sessions, or lesson***
21 ***within the sequence is based in any manner on a student's***
22 ***attendance at or completion of a prior class, class session, or***
23 ***lesson, an institution shall not enroll a student in that program of***
24 ***instruction unless the instruction begins with the first class, class***
25 ***session, or lesson and proceeds in the appropriate sequence.***

26 ***(b) (1) If a program of instruction is based on a series of***
27 ***modules comprised of class sessions or lessons and the learning***
28 ***experience to be derived from any module is based in a manner***
29 ***on a student's attendance at, or completion of, any class sessions***
30 ***or lessons in any other module, an institution shall not enroll a***
31 ***student in that course of instruction unless the student begins and***
32 ***proceeds in the appropriate sequence.***

33 ***(2) If a program of instruction is based on a series of modules***
34 ***comprised of class sessions or lessons and the learning***
35 ***experience to be derived from any module is not based on a***
36 ***student's attendance at, or completion of, any classes or lessons***
37 ***in any other module, an institution shall only enroll a student in***
38 ***the program of instruction if the student begins with the first***
39 ***class session or lesson in a module.***

1 (c) Notwithstanding subdivisions (a) and (b), if a class or a
2 module consists of more than 60 days of instruction, the
3 institution may enroll a student to begin no later than the fifth
4 class session of the first class or the fifth class session in the
5 appropriate module.

6 (d) The board, at any time, may determine whether the
7 learning experience to be derived from any class session or
8 lesson in a sequence of class sessions or lessons or from any
9 module is based in any manner on a student's attendance at, or
10 completion of, a prior class session or lesson in the sequence or
11 any class sessions or lessons in any other module. The board
12 may make the determination described in this subdivision upon
13 the application of any person or when the board deems that a
14 determination is appropriate. The institution shall have the
15 burden to establish compliance with this section.

16 (e) The institution shall not merge classes unless all of the
17 students have received the same amount of instruction and
18 training. This subdivision does not prevent the placement of
19 students, who are enrolled in different programs of instruction, in
20 the same class if that class is part of each of the courses and the
21 placement in a merged class will not impair the students'
22 learning of the subject matter of the class.

23 (f) After a student has enrolled in a program of instruction, the
24 institution shall not do any of the following:

25 (1) Make any unscheduled suspension of any class unless
26 caused by circumstances completely beyond the institution's
27 control.

28 (2) Change the day or time in which any class is offered to a
29 day when the student is not scheduled to attend the institution or
30 to a time that is outside of the range of time that the student is
31 scheduled to attend the institution on the day for which the
32 change is proposed unless at least 90 percent of the students who
33 are enrolled consent to the change and the institution offers full
34 refunds to the students who do not consent to the change. For the
35 purpose of this paragraph, "range of time" means the period
36 beginning with the time at which the student's first scheduled
37 class session for the day is set to start and ending with the time
38 the student's last scheduled class session for that day is set to
39 finish.

1 (g) If an institution enrolls a student in a program of
2 instruction that is not offered or designed as a distance learning
3 course at the time of enrollment, the institution shall not convert
4 the program of instruction from classroom instruction to a
5 distance learning course.

6 (h) An institution shall not move the class instruction to a
7 location more than five miles from the location of instruction at
8 the time of enrollment unless any of the following occur:

9 (1) The institution discloses orally and clearly and
10 conspicuously in writing to each student before enrollment in the
11 program that the location of instruction will change after the
12 program begins and the address of the proposed location.

13 (2) The institution applies for, and the board grants, approval
14 to change the location. The board shall grant the application
15 within 30 days if the board, after notice to affected students and
16 an opportunity for them to be heard as prescribed by the board,
17 concludes that the change in location would not be unfair or
18 unduly burdensome to students. The board may grant approval to
19 change the location which shall be subject to reasonable
20 conditions, such as requiring the institution to provide
21 transportation, transportation costs, or refunds to adversely
22 affected students.

23 (3) The institution offers a full refund to students enrolled in
24 the program of instruction who do not voluntarily consent to the
25 change.

26 94848.7. (a) Every institution shall maintain for a period of
27 not less than five years at its principal place of business in
28 California accurate records that show all of the following:

29 (1) The names, telephone numbers, and home and local
30 addresses of each student.

31 (2) The courses of instruction offered by the institution and the
32 curriculum for each course.

33 (3) The name, address, and educational qualifications of each
34 member of its faculty.

35 (4) The information required by subdivision (j) of Section
36 94854 and subdivision (b) of Section 94859.

37 (5) All information and records required by this chapter or
38 required by the board.

39 (b) All records that an institution is required to maintain by
40 this chapter or that relate to the institution's compliance with

1 *this chapter shall be made immediately available by the*
2 *institution for inspection and copying during normal business*
3 *hours by the board, the Attorney General, any district attorney or*
4 *city attorney, and the Student Aid Commission.*

5 *(c) An institution shall make available to a student, or a*
6 *person designated by the student, all of the student's records,*
7 *except for transcripts of grades as described in subdivision (d)*
8 *and (e).*

9 *(d) As provided in Section 94948, an institution may withhold*
10 *a student's transcript or grades if the student is in default on a*
11 *student tuition contract.*

12 *(e) If the student has made partial payment of his or her*
13 *tuition obligation, the institution may only withhold that portion*
14 *of the grades or transcript that corresponds to the amount of*
15 *tuition or loan obligation that the student has not paid. If the*
16 *course of study consists of only one course, the institution may*
17 *withhold the grades or the transcript until the tuition or loan*
18 *obligation is paid in full.*

19 *(f) Each institution shall be deemed to have authorized the*
20 *accrediting agency that accredited the institution to provide to*
21 *the board, the Attorney General, any district attorney or city*
22 *attorney, or the Student Aid Commission, within 30 days of*
23 *written notice, copies of all documents and other material*
24 *concerning the institution that is maintained by the accrediting*
25 *agency.*

26 *(g) Within 30 days of receiving written notice from the board,*
27 *the Attorney General, any district attorney or city attorney, or*
28 *the Student Aid Commission, an accrediting agency shall provide*
29 *the requesting official with all documents or other material*
30 *concerning an institution accredited by that accrediting agency*
31 *that are designated specifically or by category in the written*
32 *notice.*

33 *94848.9. (a) The institution shall provide sufficient*
34 *instruction and materials pursuant to a planned curriculum*
35 *appropriate to the student's educational program and establish*
36 *sufficient student attendance, progress, and performance*
37 *standards to reasonably ensure that students acquire the*
38 *necessary level of education, training, skill, and experience to*
39 *obtain employment in the occupation or job title to which the*
40 *course of instruction is represented to lead.*

1 (b) *The institution shall provide each student with sufficient*
2 *materials, including current publications and equipment, not*
3 *later than the time the materials are appropriate for use in the*
4 *course of instruction.*

5 (c) *If a student has begun a course of instruction and any*
6 *portion of the student's tuition is to be paid from the proceeds of*
7 *a loan or grant, the institution shall not withhold any instruction,*
8 *equipment, or materials from the student pending approval of the*
9 *loan or grant or the disbursement of any portion of the proceeds*
10 *of the loan or grant.*

11
12 *Article 7. Maxine Waters School Reform and Student*
13 *Protection Act*
14

15 94850. (a) *This article shall be known, and may be cited, as*
16 *the Maxine Waters School Reform and Student Protection Act of*
17 *1989.*

18 (b) *The Legislature finds and declares that students have been*
19 *substantially harmed and the public perception of reputable*
20 *institutions has been damaged because of the fraudulent,*
21 *deceptive, and unfair conduct of some institutions that offer*
22 *courses of instruction for a term of two years or less that are*
23 *supposed to prepare students for employment in various*
24 *occupations. Students have been induced to enroll in these*
25 *schools through various misrepresentations including*
26 *misrepresentations related to the quality of education, the*
27 *availability and quality of equipment and materials, the language*
28 *of instruction and employment and salary opportunities. Some of*
29 *the most egregious misrepresentations are made by*
30 *representatives who recruit students at places other than the*
31 *institution's premises. Some students have been enrolled who do*
32 *not have the ability to benefit from the instruction. In addition,*
33 *the quality of the education offered is often inadequate to enable*
34 *students to obtain jobs after the completion of instruction.*

35 (c) *The Legislature further finds and declares that many*
36 *students who enroll in these schools pay their tuition from the*
37 *proceeds of loans and grants guaranteed or provided by the state*
38 *and federal governments. Students who leave schools before the*
39 *completion of instruction, often because of misrepresentations*
40 *and inadequate instruction, do not receive adequate refunds of*

1 tuition for the instruction not received. Students remain liable to
2 repay student loans but are frequently unable to do so in part
3 because they were unable to obtain the proper educational
4 preparation for jobs. Students are also harmed by the closure of
5 institutions, often caused by the fraud or mismanagement of the
6 institution's operators, because the students neither obtain the
7 education promised nor a refund of tuition and the cost of
8 materials. As a result of all of the foregoing, the state and federal
9 governments spend many millions of dollars annually to satisfy
10 loan guarantees for often inadequate and misrepresented
11 postsecondary education courses.

12 (d) It is the intent and purpose of this article to protect
13 students and reputable institutions, ensure appropriate state
14 control of business and operational standards, ensure minimum
15 standards for educational quality, prohibit misrepresentations,
16 require full disclosures, prohibit unfair dealing, and protect
17 student rights. It is the intent and purpose of this article to save
18 millions of dollars of taxpayer's funds from being misused to
19 underwrite the activities of institutions that depart from the
20 standards of fair dealing and the requirements of this article.

21 (e) This article shall be liberally construed to effectuate its
22 intent and achieve its purposes.

23 (f) To the extent of any conflict between any other law and this
24 article, this article shall prevail.

25 94851. (a) The Legislature further finds and declares that
26 students have been harmed by some institutions because of the
27 financial improprieties and mismanagement of those institutions,
28 their failure to fully disclose the student's financial and
29 contractual obligations, and their failure to have sufficient
30 resources to provide the promised training. The Legislature also
31 finds that the tuition refund policies of institutions often
32 encourage unfair practices by creating a financial benefit to the
33 institution if a student drops out, and do not encourage
34 institutions to provide adequate counseling or to adopt policies
35 designed to curb student dropouts. In addition, the Legislature
36 finds that many institutions have poor records of student
37 completion and job placement, even though these institutions
38 expressly or implicitly represent that students will receive
39 sufficient training and skills to obtain well-paid employment in
40 the field that is the subject of the training, and that a reputable

1 institution is one that complies with this chapter. Consequently,
2 the Legislature finds that the business of providing occupational
3 training, instruction, and related equipment by commercial
4 enterprises has a substantial impact on the economy of this state
5 and the welfare of its citizens.

6 (b) It is the further intent and purpose of this article to
7 establish incentives to reduce student dropouts, minimum fiscal
8 standards, minimum standards for admission based on the
9 student's ability to be successfully trained, and minimum
10 standards for institutional accountability for course completion
11 and student employment in the occupations or job titles to which
12 the training is represented to lead. The Legislature finds that the
13 accountability standards for completion and employment reflect
14 a reasonable tolerance for factors outside an institution's
15 control. It is also the intent and purpose of this article to ensure
16 that the cost to taxpayers of loans and grants for postsecondary
17 education is commensurate with the benefits obtained by students
18 and flowing to the state's economy.

19 94854. (a) Every institution offering a degree or certification
20 program designed to prepare students for a particular
21 vocational, trade, or career field shall meet all of the following
22 performance standards for each program offered:

23 (1) Sixty percent or more of the students who began the
24 program, did not cancel pursuant to Section 94867, and were
25 originally scheduled at the time of enrollment to complete the
26 course during that period, shall complete it.

27 (2) Seventy percent or more of the students who completed the
28 program within that period shall obtain employment starting
29 within six months after completing the course in the occupations
30 or job titles to which the course of instruction was represented to
31 lead. For the purpose of this subdivision, "program" or
32 "program of instruction" or "course" or "course of instruction"
33 includes all courses of instruction, however denominated, that
34 are represented to lead to the same or closely related
35 occupations or job titles.

36 (b) Every institution shall meet all of the following
37 performance standards for all programs in the aggregate offered
38 by the institution at each of its campuses during the applicable
39 time period described in subdivision (l):

1 (1) Sixty percent or more of all the students who began the
2 programs did not cancel pursuant to Section 94867, and were
3 originally scheduled at the time of enrollment to complete these
4 programs during that time period, shall complete these
5 programs.

6 (2) Seventy percent or more of all the students who completed
7 the programs within that time period shall obtain employment,
8 starting within six months after completing the programs, in the
9 occupations or job titles to which the programs of instruction
10 were represented to lead.

11 (c) For the purposes of subdivisions (a) and (b), students who,
12 as documented by the institution, have been prevented from
13 completing the program or programs of instruction due to death,
14 disability, illness, pregnancy, military service, or participation in
15 the Peace Corps or Domestic Volunteer Service shall be
16 excluded from the computations used to determine whether an
17 institution has met the performance standards prescribed by
18 those subdivisions. Except as provided in Section 94848.7, an
19 institution shall not disclose the records maintained pursuant to
20 this subdivision unless production of those records are required
21 by any law, subpoena, or court order, or are necessary for a
22 certified public accountant to prepare a compliance report
23 pursuant to subdivision (g) of Section 94870.

24 (d) An institution shall meet the standards prescribed in
25 subdivisions (a) and (b) at each site at which the program or
26 programs are offered. A determination of whether a particular
27 site meets the standards prescribed in subdivisions (a) and (b)
28 shall be based only on students who attended that site.

29 (e) (1) If the institution's failure to meet the standards
30 prescribed in subdivision (a) or (b) was not caused by a violation
31 of this chapter, the board shall order that the institution
32 implement a program to achieve compliance with subdivisions
33 (a) and (b). The program may include any of the following:

34 (A) Limitations on enrollment for specific courses of
35 instruction.

36 (B) Revision of admission policies and screening practices to
37 ensure that students have a reasonable expectation of completing
38 courses and obtaining employment.

39 (C) Increased academic counseling and other student support
40 services.

1 (D) Improved curricula, facilities, and equipment.

2 (E) Revisions to the qualifications and number of faculty.

3 (F) Improved job placement services, including revisions to
4 the qualifications and number of job placement personnel and
5 the expansion of contacts with employees and state and federal
6 employment development agencies. (G) Any other reasonable
7 procedure required by the board.

8 (2) If an institution is subject to an order pursuant to
9 paragraph (2), the board may require that the institution file
10 information or reports requested by the board. The board may
11 also monitor the institution in the manner provided in subdivision
12 (d) of Section 94878.

13 (3) (A) An institution subject to an order pursuant to
14 paragraph (2) shall satisfy the standards established in
15 subdivisions (a) and (b) within the period designated by the
16 board. This period shall not extend more than one year beyond
17 the length of the program for noncompliance with the standards
18 prescribed by subdivision (a) or more than one year beyond the
19 longest program for noncompliance with the standards
20 prescribed in subdivision (b).

21 (B) If the institution fails to satisfy the standards of subdivision
22 (a) within the period designated by the board, the board shall
23 order the institution to cease offering the course of instruction at
24 the campus where that program was offered. If the institution
25 fails to satisfy the standards of subdivision (b) within the period
26 designated by the board, the board shall revoke the institution's
27 approval to operate, or approval to operate the branch or
28 satellite campus where the programs were offered. No action
29 shall be taken pursuant to this paragraph without notice, and, if
30 requested by the institution, a hearing. In taking action pursuant
31 to this subparagraph, the board shall consider the impact, if any,
32 of changes in the employment rate in the area served by this
33 institution.

34 (f) If an institution fails to meet any of the standards
35 established in subdivision (a) for the program in which the
36 standard was failed, the board shall order the institution to cease
37 offering the program of instruction at the campus where the
38 course was offered. If the institution fails to meet any of the
39 standards prescribed in subdivision (b) for all programs in the
40 aggregate, the board shall revoke the institution's approval to

1 operate, or approval to operate the branch or satellite campus
2 where the programs were offered. No action shall be taken
3 pursuant to this subdivision without notice and, if requested by
4 the institution, a hearing.

5 (g) (1) The institution shall have the burden of proving its
6 compliance with this section.

7 (2) The board shall investigate the institution whenever the
8 board deems appropriate to verify the institution's compliance
9 with this section. The investigation shall include an examination
10 of the records maintained by the institution pursuant to
11 subdivision (j) and contacts with the students and employers.

12 (3) If an institution willfully falsifies, alters, destroys,
13 conceals, or provides untrue or misleading information relating
14 to compliance with this section, including records maintained
15 pursuant to subdivision (j), the board shall revoke the
16 institution's approval to operate. No action shall be taken
17 pursuant to this paragraph without notice and, if requested by
18 the institution, a hearing. This provision supplements but does
19 not supplant any other penalty or remedy provided by law.

20 (4) The institution shall pay all reasonable costs and expenses
21 incurred by the board in connection with this section at a time
22 designated by the board.

23 (h) If the board, pursuant to subdivision (a) or (b), orders an
24 institution to cease offering a program of instruction or revokes
25 the approval of an institution to operate or operate a branch or
26 satellite campus, the institution may apply, no sooner than two
27 years after the order to cease or the revocation became effective,
28 for approval to offer that program or for approval to operate.
29 Before the board may grant any approval, the institution shall
30 establish that it complies with this chapter, each program
31 satisfies all of the minimum standards prescribed by this chapter,
32 and the circumstances surrounding the institution's failure to
33 meet the requirements of this section have sufficiently changed so
34 that the institution will be substantially likely to comply with this
35 section.

36 (i) The institution shall report its determination of its
37 compliance with the standards established in subdivisions (a)
38 and (b) in each annual report.

39 (j) In determining the placement rate, an institution may
40 exclude from the determination a student whose completion date

1 was extended beyond that report period if the extension was
2 requested by the student in writing on an enrollment agreement
3 modification request form that meets specifications established
4 by the board. The form shall include instructions to the student
5 indicating that, when signed by both the student and the
6 institution, the request modifies the existing agreement. The form
7 shall not be valid unless it provides space for the student to
8 complete a handwritten description, in the student's handwriting,
9 of the reasons necessitating the extension that are distinctly
10 personal to the student and unrelated to the provision of
11 educational services or activities of the institution, contains the
12 new expected completion date of the program, and is signed and
13 dated by the student and the institution. The institution shall
14 provide the student a copy of the signed modification request
15 form. The institution shall retain the student's original written
16 request to modify the enrollment agreement with the original
17 enrollment agreement. A student excluded from the placement
18 rate determination for a particular time period pursuant to this
19 subdivision shall be included in the placement rate determination
20 for the next immediately following report period. The institution
21 shall state in the institution's annual report the number of
22 students for whom an extension was granted.

23 (k) In determining the placement rate for a particular report
24 period as described in subdivision (l), an institution may exclude
25 from the calculation a student who either:

26 (1) Decides not to obtain employment and within six months of
27 completing the program enrolls in a program to continue his or
28 her education to obtain a higher level degree that is related to, or
29 provides for the student to use, the same skills or knowledge
30 obtained in the program the student completed.

31 (2) Is in possession at the completion of the program of a valid
32 United States Citizenship and Immigration Services Form I-20.

33 (l) In determining the placement rate for a particular report
34 period, an institution may count a student who drops out of the
35 program after completing at least 75 percent of the program
36 because the student has obtained employment which lasts for a
37 period of at least 60 days in the occupations or job titles to which
38 the program of instruction is represented to lead. No more than
39 10 percent of the institution's total number of placed students
40 may be counted pursuant to this subdivision.

1 (m) *If an order to cease offering a program or a revocation is*
2 *issued pursuant to this section, the board may permit the*
3 *institution to continue to offer the program or programs of*
4 *instruction to the students who had begun the course or courses*
5 *before the effective date of the order or revocation or may order*
6 *the institution to cease instruction and provide a refund of tuition*
7 *and all other charges to students.*

8 (n) *If an institution does not advertise that its programs are*
9 *designed to prepare students for a particular vocation, career*
10 *field or trade, it may claim exclusion from the applicability of*
11 *this section. However, the institution must make an affirmative*
12 *public disclosure to prospective students regarding any such*
13 *exclusion, as a material fact.*

14 94859. (a) *Before a person executes an agreement obligating*
15 *that person to pay any money to an institution for a program of*
16 *instruction or related equipment, the institution shall provide the*
17 *person with all of the following:*

18 (1) *A copy of the agreement containing all of the information*
19 *required by Section 94810, 94812, 94820, 94822, 94823, 94825,*
20 *and 94828.*

21 (2) *If the institution has offered the course of instruction for at*
22 *least one calendar year, it shall provide orally and in writing all*
23 *of the following information:*

24 (A) *The percentage of students completing that program of*
25 *instruction as determined pursuant to Section 94816 and Section*
26 *94854, for the time period that is required to be covered in the*
27 *last annual report that institution was required to file with the*
28 *board pursuant to Section 94808.*

29 (B) *The percentage of students who completed the program of*
30 *instruction and obtained employment as determined pursuant to*
31 *Section 94854, for the time period that is required to be covered*
32 *in the last annual report that the institution was required to file*
33 *with the board pursuant to Section 94816.*

34 (C) *Any other information necessary to substantiate the truth*
35 *of any claim made by the institution as to job placement as*
36 *required by Section 94816.*

37 (D) *If the institution or a representative of the institution*
38 *makes any express or implied claim about the salary that may be*
39 *earned after completing a program of instruction, such as a*
40 *claim that the student may be able to repay a student loan from*

1 the salary received at a job obtained following completion of the
2 program of instruction, the following disclosures, orally and in
3 writing for the time period that is required to be covered in the
4 last annual report that the institution was required to file with the
5 board pursuant to Section 94808:

6 (i) The percentage of students who were originally scheduled,
7 at the time of enrollment, to complete the program of instruction
8 in the most recent calendar year that ended not less than six
9 months prior to the date of disclosure who earn salaries at or
10 above the claimed level.

11 (ii) The ranges of monthly salaries earned by these students in
12 two hundred dollar (\$200) increments and the number of these
13 students in each salary range.

14 (E) If the institution or a representative of the institution in
15 any manner represents that the program of instruction might lead
16 to employment in an occupation or job title for which a state
17 licensing examination is required, the following disclosures,
18 orally and in writing:

19 (i) All licensure or certification requirements established by
20 the state for the occupation or job title category.

21 (ii) The pass rate of graduates of the program of instruction
22 offered by that institution for the most recent calendar year that
23 ended not less than six months prior to the date of disclosure on
24 any licensure or certification examination required by the state
25 for the particular occupation or job title.

26 (3) A current catalog or brochure containing information
27 describing the courses offered, all of the occupations or job
28 titles, if any, to which the program of instruction is represented
29 to lead, length of program, faculty and their qualifications,
30 schedule of tuition payments, fees, and all other charges and
31 expenses necessary for completion of the course of instruction,
32 cancellation and refund rights, the total cost of tuition over the
33 entire period, a description of the student's rights under the
34 Student Tuition Recovery Fund established pursuant to Section
35 94944, and all other material facts concerning the institution and
36 the program of instruction that might reasonably affect the
37 student's decision to enroll pursuant to 94814.

38 (4) If applicable, the following disclosures, orally and in
39 writing:

1 (A) If the student obtains a loan to pay for the course of
2 instruction, the student will have the responsibility to repay the
3 full amount of the loan plus interest, less the amount of any
4 refund.

5 (B) If the student is eligible for a loan guaranteed or reinsured
6 by the state or federal government and the student defaults on the
7 loan:

8 (i) The federal or state government or the loan guarantee
9 agency can take action against the student, including applying
10 any income tax refund to which the person is entitled to reduce
11 the balance owed on the loan.

12 (ii) The student may not be eligible for any other federal
13 financial assistance for education at a different school or for
14 government housing assistance until the loan is repaid.

15 (C) The institution is not a public institution.

16 (D) The institution has filed, or has had filed against it, a
17 petition in bankruptcy.

18 (b) The information required by paragraph (2) of subdivision
19 (a) shall be documented by the institution with all facts needed to
20 substantiate that information. Any information regarding a
21 student's employment shall be based on an inquiry by the
22 institution and shall be documented by the following:

23 (1) A list indicating the student's name, address, and
24 telephone number.

25 (2) The employer's name, address, and telephone number.

26 (3) The name and address or telephone number of the person
27 who provided the information regarding the student's
28 employment to the institution.

29 (4) The name, title, or description of the job.

30 (5) The date the student obtained the job.

31 (6) The duration of the student's employment.

32 (7) The amount of the salary, if any salary claim has been
33 made. Except as provided in Section 94848.7, an institution shall
34 not disclose the records maintained pursuant to this subdivision
35 unless production of those records are required by any law or by
36 subpoena or court order, or are necessary for a certified public
37 accountant to prepare a compliance report pursuant to
38 subdivision (g) of Section 94878.

39 (c) No institution which has offered a course of instruction for
40 less than one year shall make any express or implied claims

1 about the salary that a student may earn after completing the
2 course of instruction.

3 (d) The institution shall provide the catalog or brochure
4 described in paragraph (4) of subdivision (a) to any person upon
5 request.

6 (e) The written disclosure of information required by
7 subparagraphs (A), (B), and (C) of paragraph (2) of subdivision
8 (a) may be made in accordance with the chart in Appendix A of
9 Part 668 of Title 34 of the Code of Federal Regulations, or any
10 other similar form prescribed by law for the disclosure of that
11 information.

12 (f) No institution shall obtain the signature of any person to an
13 agreement obligating that person to pay any money to the
14 institution until the person has had a reasonable opportunity to
15 read and review all of the items described in subdivision (a).

16 (g) The disclosure of any information pursuant to Section
17 94853 shall not relieve any institution of any obligation to make
18 any disclosure required under this section.

19 94867. (a) (1) In addition to any other right of rescission,
20 for programs in excess of 50 days, the student shall have the
21 right to cancel an agreement for a program of instruction
22 including any equipment, until midnight of the fifth business day
23 after the day on which the student did any of the following:

24 (A) Attended the first class of the program of instruction that
25 is the subject of the agreement or received the first lesson in a
26 home study or correspondence course.

27 (B) Received a copy of the notice of cancellation as provided
28 in Section 94819.

29 (C) Received a copy of the agreement and the disclosures as
30 required by subdivision (a) of Section 94859, whichever is later.

31 (2) For programs of 50 or fewer days, the student shall have
32 the right to cancel the agreement until midnight of the date that
33 is one business day for every 10 days of scheduled program
34 length, rounded up for any fractional increments thereof.

35 (3) If the first lesson in a distance learning program is sent to
36 the student by mail, the institution shall send it by first-class
37 mail, postage prepaid, documented by a certificate of mailing,
38 and the student shall have a right to cancel until midnight of the
39 eighth business day after the first lesson was mailed.

1 ***(b) Cancellation shall occur when the student gives written***
2 ***notice of cancellation to the institution at the address specified in***
3 ***the agreement.***

4 ***(c) The written notice of cancellation, if given by mail, is***
5 ***effective when deposited in the mail properly addressed with***
6 ***postage prepaid.***

7 ***(d) The written notice of cancellation need not take a***
8 ***particular form and, however expressed, is effective if it indicates***
9 ***the student's desire not to be bound by the agreement.***

10 ***(e) Except as provided in subdivision (f), if the student cancels***
11 ***the agreement, the student shall have no liability, and the***
12 ***institution shall refund any consideration paid by the student***
13 ***within 10 days after the institution receives notice of the***
14 ***cancellation.***

15 ***(f) If the institution gave the student any equipment, the***
16 ***student shall return the equipment within 10 days following the***
17 ***date of the notice of cancellation. If the student fails to return the***
18 ***equipment within this 10-day period, the institution may retain***
19 ***that portion of the consideration paid by the student equal to the***
20 ***documented cost to the institution of the equipment and shall***
21 ***refund the portion of the consideration exceeding the***
22 ***documented cost to the institution of the equipment within 10***
23 ***days after the period within which the student is required to***
24 ***return the equipment. The student may retain the equipment***
25 ***without further obligation to pay for it.***

26 ***(g) For the purpose of determining the time within which a***
27 ***student may cancel that student's agreement for a course, as***
28 ***described in Sections 94819, 94866, and 94867, "business day"***
29 ***means the following:***

30 ***(1) Except as provided in paragraph (2), a day on which that***
31 ***student is scheduled to attend a class session.***

32 ***(2) For home-study or correspondence courses, any calendar***
33 ***day except Saturday, Sunday, or any holiday enumerated in***
34 ***Section 6700 of the Government Code.***

35 ***94869. (a) Each student of an institution has the right to***
36 ***withdraw from a program of instruction at any time.***

37 ***(b) If a student withdraws from a program of instruction after***
38 ***the period described in subdivision (a) of Section 94867, the***
39 ***institution shall remit a refund as provided in Section 94870***
40 ***within 30 days following the student's withdrawal.***

1 (c) If any portion of the tuition was paid from the proceeds of
2 a loan, the refund shall be sent to the lender or, if appropriate, to
3 the state or federal agency that guaranteed or reinsured the loan.
4 Any amount of the refund in excess of the unpaid balance of the
5 loan shall be first used to repay any student financial aid
6 program from which the student received benefits, in proportion
7 to the amount of the benefits received, and any remaining amount
8 shall be paid to the student.

9 (d) Within 10 days of the day on which the refund is made, the
10 institution shall notify the student in writing of the date on which
11 the refund was made, the amount of the refund, the method of
12 calculating the refund, and the name and address of the entity to
13 which the refund was sent. The following statement shall be
14 placed at the top of the notice in at least 10-point boldface type:
15 “This Notice is Important. Keep It For Your Records.”

16 (e) Except for subdivision (a), this section shall not apply to a
17 student if both of the following occur:

18 (1) All of that student’s tuition and fees are paid by a
19 third-party organization, such as a Job Training Partnership Act
20 agency, a regional occupational program or regional
21 occupational center, a private industry council, or a vocational
22 rehabilitation program, if the student is not obligated to repay
23 the third-party organization or does not lose time-limited
24 educational benefits.

25 (2) The third-party organization and the institution have a
26 written agreement, entered into on or before the date the student
27 enrolls, that no refund will be due to the student if the student
28 withdraws prior to completion. The institution shall provide a
29 copy of the written agreement to the board. The institution shall
30 disclose to any student whose refund rights are affected by this
31 agreement, in all disclosures required to be given to the student
32 by this chapter, that the student is not entitled to a refund. It is
33 the intent of the Legislature that this subdivision not apply to any
34 student whose tuition and fees are paid with funds provided to
35 the third-party organization for the student’s benefit as part of
36 any program that provides funds for training welfare recipients
37 or that is related to welfare reform.

38 94870. (a) (1) The institution shall have and maintain the
39 policy set forth in this section for the refund of the unused
40 portion of tuition fees and other charges if the student does not

1 register for the period of attendance or withdraws therefrom at
2 any time prior to completion of the courses, or otherwise fails to
3 complete the period of enrollment. The institutional refund policy
4 for students who have completed 100 percent or less of the
5 course of instruction shall be a pro rata refund. For the purpose
6 of this provision, the maximum fee retained by the institution for
7 application and registration fees, combined, shall be no more
8 than seventy-five dollars (\$75). Except as provided in paragraph
9 (2), the refund to be paid to a student for a program of
10 instruction subject to this article shall be calculated as follows:

11 (A) Deduct a registration fee not exceeding seventy-five
12 dollars (\$75) from the total tuition charge.

13 (B) Divide this figure by the number of hours in the program.

14 (C) The quotient is the hourly charge for the program.

15 (D) The amount owed by the student for purposes of
16 calculating a refund is derived by multiplying the total hours
17 attended by the hourly charge for instruction.

18 (E) The refund would be any amount in excess of the figure
19 derived in subparagraph (D) that was paid by the student.

20 (F) The refund amount shall be adjusted as provided in
21 subdivision (b) or (c) for equipment, if applicable.

22 (2) For an educational service offered by home study or
23 correspondence, the refund shall be the amount the student paid
24 for lessons less a registration fee not exceeding seventy-five
25 dollars (\$75), multiplied by a fraction, the numerator of which is
26 the number of lessons for which the student has paid but which
27 the student has not completed and submitted, and the
28 denominator of which is the total number of lessons for which the
29 student has paid. The refund amount shall be adjusted as
30 provided in subdivision (b) or (c) for equipment and as provided
31 in subdivision (d) for resident instruction, if applicable.

32 (3) Notwithstanding any provision in any agreement, all of the
33 following shall apply:

34 (A) All amounts that the student has paid, however
35 denominated, shall be deemed to have been paid for instruction,
36 unless the student has paid a specific charge for equipment set
37 forth in the agreement for the program of instruction.

38 (B) In the case of an educational service offered by home
39 study or correspondence, all amounts that the student has paid,
40 however denominated, shall be deemed to have been paid for

1 lessons unless the student has paid a specific charge for
2 equipment or resident instruction as set forth in the agreement
3 for the educational service.

4 (C) The total number of hours necessary to complete each
5 lesson of home study or correspondence instruction shall be
6 substantially equivalent to each lesson unless otherwise
7 permitted by the board.

8 (D) An equal charge shall be deemed to have been made for
9 each hour of instruction or each lesson.

10 (b) If the institution specifies in the agreement a separate
11 charge for equipment that the student actually obtains and the
12 student returns that equipment in good condition, allowing for
13 reasonable wear and tear, within 30 days following the date of
14 the student's withdrawal, the institution shall refund the charge
15 for the equipment paid by the student. If the student fails to
16 return that equipment in good condition, allowing for reasonable
17 wear and tear, within 30 days following the date of the student's
18 withdrawal, the institution may offset against the refund
19 calculated under subdivision (a) the documented cost to the
20 institution of that equipment. The student shall be liable for the
21 amount, if any, by which the documented cost for equipment
22 exceeds the refund amount calculated under subdivision (a). For
23 the purposes of this subdivision, equipment shall not be deemed
24 to be returned in good condition if the equipment may not be
25 reused because of clearly recognized health and sanitary
26 reasons, and this fact is clearly and conspicuously disclosed in
27 the agreement.

28 (c) If the institution specifies in the agreement a separate
29 charge for equipment that the student has not obtained at the
30 time of the student's withdrawal, the refund also shall include the
31 amount paid by the student that is allocable to that equipment.

32 (d) If an agreement for educational service offered by home
33 study or correspondence includes a separate charge for resident
34 instruction, which the student has not begun at the time of the
35 student's withdrawal, the institution shall refund the charge for
36 the resident instruction paid by the student. If the student
37 withdraws from the educational service after beginning the
38 resident instruction, the institution shall pay a refund equal to the
39 amount the student paid for the resident instruction multiplied by
40 a fraction, the numerator of which is the number of hours of

1 *resident instruction which the student has not received but for*
2 *which the student has paid, and the denominator of which is the*
3 *total number of hours of resident instruction for which the*
4 *student has paid.*

5 *(e) For the purpose of determining a refund under this section,*
6 *a student shall be deemed to have withdrawn from a program of*
7 *instruction when any of the following occurs:*

8 *(1) The student notifies the institution of the student's*
9 *withdrawal or of the date of the student's withdrawal, whichever*
10 *is later.*

11 *(2) The institution terminates the student's enrollment as*
12 *provided in the agreement.*

13 *(3) The student has failed to attend classes for a three-week*
14 *period. For the purpose of subdivision (a) of Section 94869 and*
15 *for determining the amount of the refund, the date of the*
16 *student's withdrawal shall be deemed the last date of recorded*
17 *attendance. For the purpose of determining when the refund must*
18 *be paid pursuant to subdivision (b) of Section 94869, the student*
19 *shall be deemed to have withdrawn at the end of the three-week*
20 *period.*

21 *(4) The student has failed to submit three consecutive lessons*
22 *or has failed to submit a completed lesson within 60 days of its*
23 *due date as set by an educational service offered by home study*
24 *or correspondence. For the purpose of this paragraph, the date*
25 *of the student's withdrawal shall be deemed to be the date on*
26 *which the student submitted the last completed lesson.*

27 *(f) An institution shall have the burden of proof to establish*
28 *the validity of the amount of every refund. The institution shall*
29 *maintain records for five years of all the evidence on which the*
30 *institution relies.*

31 *(g) Any institution that meets each of the criteria in paragraph*
32 *(1) shall be subject to the refund requirements in this section only*
33 *for those students who withdraw from a course of instruction*
34 *after having completed 60 percent or less of the course of*
35 *instruction.*

36 *(1) To qualify under this subdivision, an institution shall*
37 *submit to the board a compliance report prepared by a certified*
38 *public accountant, who is not an officer, director, shareholder,*
39 *or employee of the institution, any parent corporation, or any*
40 *subsidiary, prepared pursuant to an attestation engagement in*

1 *accordance with the Statements on Standards for Attestation*
2 *Engagements of the American Institute of Certified Public*
3 *Accountants, which states that for a period of two years prior to*
4 *the compliance report, the beginning and ending dates of which*
5 *shall be determined by the board, the institution has:*

6 *(A) Complied with Section 94824 or subdivision (b) of Section*
7 *94869 and with this section for refunds owed by the institution.*

8 *(B) Complied with subdivision (b) of Section 94854 for each of*
9 *the two years covered by the audit except that:*

10 *(i) The institution shall have an aggregate completion rate of*
11 *70 percent or more pursuant to paragraph (1) of subdivision (b)*
12 *of Section 94854.*

13 *(ii) The institution shall have an aggregate placement rate of*
14 *80 percent or more pursuant to paragraph (2) of subdivision (b)*
15 *of Section 94854.*

16 *(iii) As an alternative to clauses (i) and (ii), the institution*
17 *shall have a combined aggregate completion and placement rate*
18 *of 56 percent or more.*

19 *(iv) In attesting to the institution's compliance with the*
20 *requirements of this subparagraph, the certified public*
21 *accountant, at a minimum, shall review a random statistically*
22 *valid sample of the students to whom the institution owed a*
23 *refund, the students counted by the institution towards its*
24 *completion rate and its placement rate, and the students excluded*
25 *from the calculation of the completion and placement rates,*
26 *review the institution's placement log or files and contact*
27 *students and employers to verify information in the placement*
28 *records, whether the student was employed in the job for which*
29 *the training was represented to lead, and whether the student*
30 *was employed for at least 60 days.*

31 *(2) (A) The board shall review the compliance report*
32 *submitted by the institution pursuant to this subdivision.*

33 *(B) The board shall review any complaints against the*
34 *institution by current or former students, any civil lawsuit in*
35 *which the institution is a defendant or any lawsuit, action,*
36 *charges, proceeding, or investigation by any government agency*
37 *or any accrediting agency in which the institution is a party*
38 *which were filed, pending, or resolved during the two-year*
39 *period covered by the compliance report. After reviewing such*
40 *complaints, lawsuits, actions, charges, proceedings, or*

1 investigations, as well as any other information available to the
2 board and performing whatever other investigation it deems
3 appropriate, the board shall make a determination, in writing, of
4 whether the institution has materially violated Section 94815,
5 94819, 94931.2, 94932, 94933, 94848.5, 94848.9, 94853, 94859,
6 94866, 94869, 94870, 94871, 94881, or its predecessor sections,
7 based on a preponderance of the evidence. The board's
8 determination shall contain a summary of the evidence relied
9 upon in making the determination and the sections for which a
10 material violation exists. The board's determination shall have
11 no probative value in connection with any lawsuits, actions,
12 charges, or proceedings pending before any court or any other
13 agency.

14 (C) If the board determines that the institution has met all of
15 the criteria in paragraph (1) and that no material violation exists
16 pursuant to subparagraph (B) of this paragraph, it shall notify
17 the institution that it qualifies under this subdivision. Following
18 such notification, the refund provisions of this subdivision shall
19 apply to the institution for a period of two years, unless revoked
20 by the board.

21 (D) If the board determines that the institution has not met all
22 of the criteria in paragraph (1) or that a material violation exists
23 pursuant to subparagraph (B) of this paragraph, it shall notify
24 the institution that it does not qualify under this subdivision.

25 (E) The institution shall receive notice of any determination
26 with a summary of evidence pursuant to this paragraph and, if
27 requested in writing, a hearing. The institution may appeal the
28 board's adverse decision under this paragraph. To the extent
29 feasible, the board shall adopt regulations to provide for a
30 streamlined appeal process for purposes of appeals pursuant to
31 this subparagraph. Pending resolution of the appeal, the
32 institution is not eligible to qualify under this subdivision. If the
33 institution prevails on appeal, it may obtain relief limited to a
34 determination that it is eligible for the refund provisions of this
35 subdivision at the next time when it starts new students in its
36 programs following the determination of the appeal. If the
37 institution does not prevail on appeal, it may not seek to qualify
38 under this subdivision for one year following the determination
39 of the appeal.

(3) Prior to notifying an institution pursuant to paragraph (2), the board shall adopt regulations to implement this subdivision, including regulations to establish the dates each year for submission of compliance reports by institutions, notification of institutions by the board of the applicable refund policy for the institution, the effective date of that refund policy, appropriate standards and procedures for conducting any review by a certified public accountant or any other person pursuant to this subdivision, including a description of the information and materials to be reviewed and appropriate standards for review which shall be based on the American Institute of Certified Public Accountants' Statements on Standards for Attestation Engagements.

(4) (A) Any institution that has been notified by the board that it qualifies for the refund provisions in this subdivision shall lose its qualification if the board determines either of the following:

(i) The institution has materially violated Section 94815, 94819, 94931.2, 94932, 94834, 94848.5, 94848.9, 94853, 94859, 94866, 94869, 94870, 94871, or 94881, or has failed to meet the criteria in paragraph (1) during the period covered by the compliance report upon which the board based its determination of qualification.

(ii) The institution has been found by any court or any other governmental agency in any proceeding, to have violated any of the provisions set forth in clause (i) and that violation was material or the institution has been found by any court or any other governmental agency in any proceeding, to have failed to meet the criteria in paragraph (1) during the period covered by the compliance report upon which the board based its determination of eligibility.

(B) If the board, a court, or other governmental agency finds that the institution willfully supplied information required by this subdivision which it knew or should have known was inaccurate or misleading, the institution's approval to operate may be subject to termination, suspension, or probation.

(C) The institution shall receive notice of any determination with a summary of evidence and, if requested in writing, a hearing prior to any action being taken pursuant to this paragraph. To the extent feasible, the board shall adopt regulations to provide for a streamlined appeal process for

1 *purposes of appeals pursuant to this subparagraph. Pending*
2 *resolution of the appeal, the institution may not reapply pursuant*
3 *to paragraph (9). If the institution prevails on appeal, it may*
4 *obtain relief limited to a determination that it continues to*
5 *qualify under this subdivision for the period of time covered by*
6 *the board's most recent determination of qualification. If the*
7 *institution does not prevail on appeal, the institution may not*
8 *seek to qualify for the refund provisions of this subdivision for*
9 *three years following the determination of the appeal and shall*
10 *be subject to the refund requirements in subdivision (a), and not*
11 *the refund provisions in this subdivision, for all students who*
12 *enrolled during the entire time period covered by the board's*
13 *most recent determination of qualification.*

14 *(D) The penalties in this paragraph supplement, but do not*
15 *supplant, any other sanction or remedy allowed by law.*

16 *(5) If an institution does not qualify under this subdivision*
17 *because it fails to meet the requirement of subparagraph (A) of*
18 *paragraph (1) by three students out of all students to whom it*
19 *owed refunds during the period examined by the compliance*
20 *report or 1 percent of all students to whom it owed refunds*
21 *during the period covered by the compliance report, whichever is*
22 *greater, the board may determine that the institution qualifies*
23 *under this subdivision.*

24 *(6) The certified public accountant shall submit any initial*
25 *compliance report prepared pursuant to this subdivision to both*
26 *the institution and the board. The institution shall submit any*
27 *comments, suggested corrections, or exceptions to the initial*
28 *compliance report to the certified public accountant and the*
29 *board. The certified public accountant shall submit a final*
30 *compliance report to both the institution and the board. The*
31 *certified public accountant shall maintain possession of all work*
32 *papers for a period of five years following completion of the final*
33 *compliance report. The board shall make a copy of the*
34 *compliance report available to any student, prospective student,*
35 *or former student of the institution upon request.*

36 *(7) If the board determines that the institution has met the*
37 *criteria in this subdivision based on the information contained in*
38 *a compliance report prepared by a certified public accountant*
39 *pursuant to this subdivision, the following shall be deemed to be*
40 *the intended beneficiaries of that compliance report:*

1 (A) *The Board for Private Postsecondary and Vocational*
2 *Education.*

3 (B) *The Student Aid Commission.*

4 (C) *The United States Department of Education.*

5 (D) *Any student who enrolls in the institution during the time*
6 *period the institution qualifies under this subdivision.*

7 (8) *In lieu of the attestation engagement referred to in*
8 *paragraph (1), an institution that qualifies as a small institution*
9 *under this paragraph may show that it has complied with each of*
10 *the criteria in paragraph (1) pursuant to a review performed by*
11 *the board, or any other alternative review that meets all of the*
12 *requirements for an attestation by a certified public accountant*
13 *pursuant to this subdivision which shall conform with the board's*
14 *regulations. If the board performs the review requested by the*
15 *institution, the institution shall pay the board all of its costs and*
16 *expenses associated with conducting the review. The board shall,*
17 *by regulation, define "small institution" for the purposes of this*
18 *paragraph in terms of assets, number of students, gross revenues,*
19 *other appropriate criteria, as determined by the board, or any*
20 *combination thereof.*

21 (9) *An institution may apply to the board for a renewal of the*
22 *board's determination that the institution qualifies under this*
23 *subdivision subject to the same terms and conditions as required*
24 *for the board's initial determination.*

25 (10) *If an institution qualifies under this subdivision, it shall*
26 *disclose that refund policy in any disclosure, catalogue, notice,*
27 *or agreement in which disclosure of a refund policy is required*
28 *by this chapter. The institution may not state in any advertising,*
29 *disclosure, catalogue, notice, or agreement that it qualifies for a*
30 *"good school" or a "high performance" exemption, that it*
31 *qualifies for a "good school" or "high performance" refund*
32 *policy, or that it has been determined by the state to be a "good*
33 *school" or a "high performing school," or use any similar words*
34 *or phrases.*

35 (11) *If a request for approval under this subdivision is filed*
36 *concurrently with an initial or renewal application, no additional*
37 *fees shall be charged. If a request for approval is not filed*
38 *concurrently with an initial or renewal application, fees shall be*
39 *charged as authorized by Section 94790 and the board's*
40 *regulations.*

1 94872. (a) An institution shall not enter into an agreement
2 for a program of instruction with a student unless the institution
3 first administers to the student and the student passes a test as
4 provided in subdivision (b).

5 (b) (1) The test required by subdivision (a) shall be a
6 standardized test that is designed to measure and that reliably
7 and validly measures the student's ability to be successfully
8 trained to perform the tasks associated with the occupations or
9 job titles to which the program of instruction is represented to
10 lead. The student's performance on the test must demonstrate
11 that ability.

12 (2) Nothing in paragraph (1) precludes an institution from
13 using additional tests to determine a student's ability to be
14 trained to perform tasks associated with the occupations and job
15 titles for which training is offered as described in paragraph (1).

16 (3) (A) If no standardized test is available that satisfies
17 paragraph (1), the institution shall use other appropriate tests to
18 determine the student's ability to be trained to perform the tasks
19 associated with the occupations and job titles for which training
20 is offered as described in paragraph (1). Within 30 days of
21 determining that no standardized test satisfies paragraph (1), the
22 institution shall so inform the board and shall describe and, if
23 possible, furnish the board with the test to be used in lieu of the
24 test required by paragraph (1).

25 (B) Upon reasonable notice to the institution, the board may
26 order the institution to demonstrate to the reasonable satisfaction
27 of the board that the test and passing score are an appropriate
28 measure of the student's ability to be trained to perform the tasks
29 associated with the occupations or job titles to which the course
30 is represented to lead. If the test is not an appropriate measure,
31 the board, after notice, and if requested, a hearing as provided in
32 Section 94965 or 94975, shall order that the institution cease
33 administering the test.

34 (c) The institution shall have the burden of proof that the test
35 complies with subdivision (b). If no minimum passing score is
36 established by the test developer or if the minimum passing score
37 used by the institution is below the minimum passing score
38 established by the test's developer, the institution shall have the
39 burden of proof that the student's achievement of the minimum
40 passing score reasonably measures the student's ability to be

1 *successfully trained to perform the tasks associated with the*
2 *occupations and job titles to which the course of instruction is*
3 *represented to lead. The test shall be administered in accordance*
4 *with the test's instructions, rules, and time limits.*

5 *(d) (1) The test shall be completed solely by the student.*

6 *(2) No institution or any person in any manner associated with*
7 *the institution shall do any of the following:*

8 *(A) Answer any of the test questions.*

9 *(B) Read any of the test questions to the student.*

10 *(C) Provide any assistance whatsoever to the student in*
11 *answering test question. Nothing in this subparagraph prevents*
12 *an institution from providing nonsubstantive assistance to*
13 *accommodate the disability of a handicapped person otherwise*
14 *qualified to take the test.*

15 *(3) The test shall be given by the institution on its premises or*
16 *by an independent testing service. The site requirement does not*
17 *apply to an institution offering a home study or correspondence*
18 *course.*

19 *(4) If a prospective student has failed a test, the institution or*
20 *the testing service that administered the test shall not administer*
21 *another test to that prospective student for at least the period*
22 *specified by the test developer or one week, whichever is longer.*
23 *Any subsequent test administered by an institution to the same*
24 *prospective student shall be a substantially different form of the*
25 *same test or a substantially different test than the preceding test*
26 *and shall satisfy the requirements of paragraph (1) or, if*
27 *applicable, paragraph (3) of subdivision (b).*

28 *(e) An institution's application for approval to operate shall*
29 *do all of the following:*

30 *(1) Identify the test used to comply with this section.*

31 *(2) State the minimum score, if any, that the test's developer*
32 *indicates a prospective student must achieve to demonstrate an*
33 *ability to be successfully trained to perform the tasks associated*
34 *with the occupations or job titles to which the course is*
35 *represented to lead.*

36 *(3) State the minimum passing score used by the institution.*

37 *(4) If the institution accepts a lower minimum passing score*
38 *than is indicated by the test's developer, state an explanation of*
39 *why the institution accepts a lower minimum passing score.*

1 (f) *The institution shall, for five years, retain an exemplar of*
2 *each test administered by the institution pursuant to this section,*
3 *an exemplar of the answer sheet for each test, a record of the*
4 *passing score for each test, and the answer sheets or other*
5 *responses submitted by each person who took each test.*

6
7 Article 8. *Standards and Evaluation Procedures for*
8 *Degree-Granting and Nondegree-Granting Institutions*
9

10 94900. (a) *No private postsecondary educational institution*
11 *may issue, confer, or award a professional, academic or*
12 *honorary degree, or nondegree certification, unless the*
13 *institution is approved by the board to operate. An institution*
14 *shall not offer any educational program that was not offered by*
15 *the institution at the time the institution applied for approval to*
16 *operate, and shall not offer any educational program at a*
17 *campus that had not offered the program at the time the*
18 *institution applied for approval to operate that campus, unless*
19 *the board first approves the offering of the program after*
20 *determining that it satisfies the minimum standards established*
21 *by this section. In addition, if the institution is regulated by any*
22 *other state licensing agency, the institution shall have obtained*
23 *and retained the approval of that agency. The board shall not*
24 *issue an approval under paragraph (1) of subdivision (b) of*
25 *Section 94901 or a conditional approval under paragraph (2) of*
26 *subdivision (b) of Section 94901 until it has conducted a*
27 *qualitative review and assessment of, and has approved, each*
28 *degree and nondegree program offered by the institution, and all*
29 *of the operations of the institution, and has determined all of the*
30 *following:*

31 (1) *The institution has the facilities, financial resources,*
32 *administrative capabilities, faculty, and other necessary*
33 *educational expertise and resources to ensure its capability of*
34 *fulfilling the program or programs for enrolled students.*

35 (2) *The faculty are fully qualified to undertake the level of*
36 *instruction that they are assigned and possess degrees or*
37 *credentials appropriate to the degree program or the level they*
38 *teach, and have demonstrated professional achievement in the*
39 *major field or fields offered, in sufficient numbers to provide the*
40 *educational services.*

1 (3) *The education services and curriculum clearly relate to the*
2 *objectives of the proposed program or programs and offer*
3 *students the opportunity for a quality education.*

4 (4) *The facilities are appropriate for the defined educational*
5 *objectives and are sufficient to ensure quality educational*
6 *services to the students enrolled in the program or programs.*

7 (5) *If an institution represents that a program leads to*
8 *employment, the quality, content, and instruction of the program*
9 *shall be sufficient to ensure that students may acquire the*
10 *necessary level of education, training, skill, and experience to*
11 *obtain employment in the occupation or job title to which the*
12 *program of instruction is represented to lead.*

13 (6) *The institution provides adequate student advisement*
14 *services, academic planning and curriculum development*
15 *activities, research supervision for students enrolled in Ph.D.*
16 *programs, and clinical supervision for students enrolled in*
17 *various health profession programs.*

18 (7) *If the institution offers credit for prior experiential*
19 *learning it may do so only after an evaluation by qualified faculty*
20 *and only in disciplines within the institution's curricular*
21 *offerings that are appropriate to the educational program to be*
22 *pursued. The board shall develop specific standards regarding*
23 *the criteria for awarding credit for prior experiential learning at*
24 *the graduate level, undergraduate level, and certificate level that*
25 *will include the maximum number of hours for which credit may*
26 *be awarded.*

27 (8) *The institution maintains for at least five years written*
28 *records of each student's previous education and training for*
29 *which credit was granted.*

30 (9) *A copy of the course outline, description of the occupations*
31 *or job titles, if any, to which the course of instruction is*
32 *represented to lead.*

33 (10) *The institution maintains and enforces adequate*
34 *standards relating to, and maintains records of, attendance,*
35 *satisfactory academic progress, and student performance to*
36 *achieve the objective described in paragraph (1).*

37 (11) *The institution complies with all local city, county,*
38 *municipal, state, and federal regulations relative to the safety*
39 *and health of all persons upon the premises such as fire,*

1 *building, and sanitation codes. The board may require evidence*
2 *of compliance.*

3 *(12) The institution complies with Article 7 (commencing with*
4 *Section 94850) if that article is applicable to any educational*
5 *program it offers.*

6 *(13) Application for approval shall be made in writing on*
7 *forms prescribed by the board. The application for approval*
8 *shall include, if applicable to the institution, a statement of*
9 *whether the institution claims that it is exempt or that an*
10 *educational program it offers is exempt from Article 7*
11 *(commencing with Section 94850).*

12 *(b) The approval process shall include a qualitative review*
13 *and assessment of all of the following:*

14 *(1) Institutional purpose, mission, and objectives.*

15 *(2) Governance and administration.*

16 *(3) Curriculum.*

17 *(4) Instruction.*

18 *(5) Faculty, including their qualifications.*

19 *(6) Physical facilities.*

20 *(7) Administrative personnel.*

21 *(8) Procedures for keeping educational records.*

22 *(9) Tuition, fee, and refund schedules.*

23 *(10) Admissions standards.*

24 *(11) Financial aid policies and practices.*

25 *(12) Scholastic regulations and graduation requirements.*

26 *(13) Ethical principles and practices.*

27 *(14) Library and other learning resources.*

28 *(15) Student activities and services.*

29 *(c) The standards and procedures utilized by the board shall*
30 *foster the development of high quality, innovative educational*
31 *programs and emerging new fields of study within postsecondary*
32 *education. In addition, the standards and procedures utilized by*
33 *the board shall not unreasonably hinder educational innovation*
34 *and competition.*

35 *94901. (a) (1) If an institution is not operating in California*
36 *when it applies for approval to operate, the institution shall file*
37 *with its application an operational plan establishing that the*
38 *institution will satisfy the minimum standards set forth in*
39 *subdivision (a) of Section 94900. The operational plan also shall*
40 *include a detailed description of the institution's program for*

1 implementing the operational plan, including proposed
2 procedures, financial resources, and the qualifications of
3 owners, directors, officers, and administrators employed at the
4 time of the filing of the application. The board may request
5 additional information to enable the board to determine whether
6 the operational plan and its proposed implementation will satisfy
7 these minimum standards.

8 (2) If the board determines that the operational plan satisfies
9 the minimum standards described in subdivision (a) of Section
10 94900, that the institution demonstrates that it will implement the
11 plan, and that no grounds for denial of the application exists, the
12 board shall grant a provisional approval to operate, subject to
13 any restrictions the board reasonably deems necessary to ensure
14 compliance with this chapter, pending a qualitative review and
15 assessment as provided in subdivisions (a) and (b) of Section
16 94900. The board shall inspect the institution, pursuant to
17 subdivision (a) of this section, within 360 days after operation
18 has begun under the provisional approval to operate. A
19 provisional approval may be extended by the board for an
20 additional period of not more than 180 days. If a review and
21 decision on an initial application submitted pursuant to Section
22 94900 cannot be completed by the board prior to the expiration
23 of the institution's provisional approval, that expiration date
24 shall be extended until the date that the board notifies the
25 institution of its decision.

26 (b) All institutions operating under a provisional approval
27 must include the following disclosure on each enrollment
28 agreement and catalog:

29 "This institution has received a provisional approval to
30 operate from the Board for Private Postsecondary and
31 Vocational Education. A provisional approval is merely an
32 interim designation the board can authorize pending a
33 qualitative review and assessment of the institution. At the time it
34 is issued, the board has not yet conducted a site visit. It is issued
35 if the board determines the institution's operational plan satisfies
36 the minimum standards listed in Education Code Section 94900.
37 The provisional approval will remain in effect for not more than
38 360 days in order to enable the board to conduct the site visit
39 and inspection of the institution. After that visit, the board will
40 then determine whether the institution should be approved. If a

1 review and decision cannot be completed by the board prior to
2 the expiration of the institution's provisional approval, that
3 expiration date shall be extended until the date that the board
4 notifies the institution of its decision."

5 (c) All institutions operating under a provisional approval
6 shall have the following notice included in any advertisements it
7 causes to be published in the print or electronic media:

8 "This institution has received a provisional approval to
9 operate from the Board for Private Postsecondary and
10 Vocational Education in order to enable the board to conduct a
11 quality inspection of the institution."

12 (1) Within 90 days of the receipt of the report and
13 recommendations, the board shall take one of the following
14 actions:

15 (A) If the institution is in compliance with this chapter, the
16 board may grant an approval to operate not to exceed five years.

17 (B) If the institution is not in compliance with this chapter, or
18 if the board determines that an unconditional grant of approval
19 to operate is not in the public interest, the board may grant a
20 conditional approval to operate subject to whatever restrictions
21 the board deems appropriate. The board shall notify the
22 institution of the restrictions or conditions, the basis for the
23 restrictions or conditions, and the right to request a hearing to
24 contest them. Conditional approval shall not exceed two years.

25 (d) The board may deny the application. The board may also
26 deny or revoke an institution's approval to offer specific
27 educational programs. If the application is denied or if specific
28 educational programs are revoked, the board may permit the
29 institution to continue offering the program of instruction to
30 students already enrolled or may order the institution to cease
31 instruction and provide a refund of tuition and all other charges
32 to students.

33 (e) The board shall conduct a qualitative review and
34 assessment of the institution. The board may also conduct a
35 qualitative review and assessment of all programs offered, except
36 continuing education programs and programs that are
37 exclusively avocational or recreational in nature.

38 (1) The review for all degree-granting institutions operating
39 under a provisional approval shall include the items listed in
40 subdivision (b) of Section 94900, through a comprehensive onsite

1 review process, performed by a qualified visiting committee
2 impaneled by the board for that purpose. The board reserves the
3 right to use a qualified visiting committee in subsequent reviews,
4 such as an application for renewal. The scope and composition
5 of the visiting committee in either initial approvals or renewals
6 shall be at the discretion of the board.

7 (2) For all institutions exclusively offering nondegree
8 programs and operating under a provisional approval, a
9 representative of the board shall inspect the institution and verify
10 the institution's compliance with the standards prescribed by this
11 chapter. The board reserves the right to use a qualified visiting
12 committee in the initial review of programs and in subsequent
13 reviews. The visiting committee may include employers with
14 expertise related to the program being reviewed. The institution
15 seeking approval shall reimburse the board for the expenses of
16 the visiting committee. The onsite inspection shall include an
17 inspection of the institution's facilities and records, interviews of
18 administrators, faculty, and students, and an observation of class
19 instruction, as determined to be appropriate by the board.

20 (3) The board may waive or modify the onsite inspection for
21 institutions offering educational services through distance
22 learning.

23 (4) The board may utilize the resources of accrediting
24 associations and licensing agencies in lieu of impaneling a
25 visiting committee in gathering information about postsecondary
26 and vocational education institutions that are accredited or offer
27 education for which the objectives are that graduates be eligible
28 for licensure. This may include authorized board staff
29 participating as observers on accreditation, and applicable
30 licensing agency, site visits. This section does not preclude or
31 relieve the board of its responsibilities under this chapter and the
32 board shall retain full authority for approving all private
33 postsecondary and vocational institutions operating in
34 California.

35 (f) The branches or satellites included in either an initial or
36 renewal application shall be considered by the board as
37 subdivisions of the single institution for purposes of regulation,
38 approval, and compliance under this chapter.

39 (1) The application shall include a single fee based on the
40 number of branches, satellites, and programs included within a

1 single application in order to cover the costs involved for those
2 multisite and multiprogram reviews. If the application is for
3 renewal of an existing approval, the institution need only submit
4 information necessary to document any changes made since the
5 time its previous application was filed with the board. Fees for
6 renewal applications will be based on the actual costs involved
7 in the administrative review process.

8 (2) The number of sites inspected by the board as part of its
9 review process shall be subject to the following considerations:

10 (A) If the application for approval includes branches and
11 satellites, the board may inspect each branch and may inspect
12 any satellite campus.

13 (B) If the application is for approval to operate a branch or a
14 satellite, the board, in addition to inspecting the branch or
15 satellite, also may inspect the institution operating the branch or
16 satellite campus.

17 (g) When evaluating an institution whose purpose is to
18 advance postsecondary education through innovative methods,
19 the visiting committee shall be comprised of educators who are
20 familiar with, and receptive to, evidence bearing on the
21 educational quality and accomplishments of those methods.

22 (h) The standards and procedures utilized by the board shall
23 not unreasonably hinder educational innovation and competition.

24 (i) Each institution or instructional program offering
25 education for entry into a health care profession in which the
26 provider has primary care responsibilities shall offer that
27 education within a professional program that shall be subject to
28 approval by the board pursuant to this section.

29 (j) If at any time the board determines that an institution has
30 deviated from the standards for approval, the board, after
31 identifying for the institution the areas in which it has deviated
32 from the standards, and after giving the institution due notice
33 and an opportunity to be heard, may place the institution on
34 conditional approval for a prescribed period of time, not to
35 exceed two years. During the period of the conditional approval,
36 the institution shall be subject to special monitoring. The
37 conditions for the conditional approval may include the required
38 submission of periodic reports, as prescribed by the board, and
39 special visits by authorized representatives of the board to
40 determine progress toward total compliance. If, at the end of the

1 conditional approval period, the institution has not taken steps to
2 eliminate the cause or causes for its conditional approval to the
3 satisfaction of the board, the board may revoke the institution's
4 approval to award degrees and certificates and provide notice to
5 the institution to cease its operations. While the institution is
6 operating under a Conditional Approval, the board will not
7 review or consider any request by the institution to add new
8 educational programs. All institutions operating under a
9 conditional approval must provide the following disclosure to
10 each current student and prospective student in writing:

11 “This institution has received a conditional approval to
12 operate from the Board for Private Postsecondary and
13 Vocational Education. A conditional approval means that this
14 institution was found to be operating in violation of the statutes
15 and regulations that govern private postsecondary educational
16 institutions, and therefore it was not in the public interest to give
17 this institution an unconditional approval to operate in this state.
18 This designation allows the institution to operate while the board
19 monitors compliance with applicable regulations, statutes, and
20 restrictions placed upon this institution.”

21 This notice shall be signed by both the student and a
22 representative of the institution and evidenced in the student's
23 file. This disclosure must also be included in the institution's
24 catalog as a material fact.

25 (k) An institution may not advertise itself as an approved
26 institution unless each educational program offered by the
27 institution has been approved in accordance with the
28 requirements of this section. The board shall review all
29 operations of the institution pertaining to California educational
30 programs, both within and outside of California. The board may
31 conduct site visits outside of California, including the
32 institution's foreign operations, when the board deems these
33 visits to be necessary. The institution shall be responsible for the
34 expenses of the visiting team members including the board's staff
35 liaison.

36 94902. (a) As used in this section, “ESL instruction” means
37 any educational service involving instruction in English as a
38 second language.

39 (b) No institution shall offer ESL instruction without the prior
40 approval of the board.

1 (c) *The board shall not approve an institution's offering of*
2 *ESL instruction unless that institution complies with the*
3 *minimum standards established in subdivision (a) of Section*
4 *94915.*

5 (d) *An institution that offers ESL instruction to a student shall*
6 *not enroll the student in any educational service presented in the*
7 *English language unless the student passes a test indicating that*
8 *he or she has attained adequate proficiency in oral and written*
9 *English to comprehend instruction in English.*

10 (e) *A student who has completed ESL instruction at an*
11 *institution shall not be enrolled in any course of instruction*
12 *presented in the English language at that institution unless the*
13 *student passes a test indicating that he or she has attained*
14 *adequate proficiency in oral and written English to be*
15 *successfully trained by English language instruction to perform*
16 *tasks associated with the occupations or job titles to which the*
17 *educational program is represented to lead.*

18 (f) *If an institution offers ESL instruction to a student to*
19 *enable the student to use already existing knowledge, training, or*
20 *skills in the pursuit of an occupation, the institution shall test the*
21 *student after the student completes the ESL instruction to*
22 *determine that the student has attained adequate proficiency in*
23 *oral and written English to use his or her existing knowledge,*
24 *training, or skills. Before enrolling the student in ESL*
25 *instruction, the institution shall document the nature of the*
26 *student's existing knowledge, training, or skills and that the ESL*
27 *instruction is necessary to enable the student to use that existing*
28 *knowledge, training, or skills.*

29 (g) *If an institution offers ESL instruction to a student in*
30 *connection with a course of instruction leading to employment in*
31 *any occupation requiring licensure awarded after the passage of*
32 *an examination offered in English, the institution shall test the*
33 *student after the student completes the ESL instruction to*
34 *determine that the student has attained a level of proficiency in*
35 *English reasonably equivalent to the level of English in which the*
36 *licensure examination is offered.*

37 (h) *If the results of a test administered pursuant to subdivision*
38 *(d), (e), (f), or (g) indicate that the student has not attained*
39 *adequate English language proficiency after the completion of*
40 *ESL instruction, the institution shall offer the student additional*

1 *instruction without charge, for a period of up to 50 percent of the*
2 *number of hours of instruction previously offered by the*
3 *institution to the student, to enable the student to attain adequate*
4 *English language proficiency.*

5 *(i) This section does not apply to educational services*
6 *exempted from this article under subdivision (c) of Section 94790*
7 *or to grantees funded under Section 1672 of Title 29 of the*
8 *United States Code.*

9 *(j) The institution, for five years, shall retain an exemplar of*
10 *each language proficiency test administered pursuant to this*
11 *section, an exemplar of the answer sheet for each test, a record*
12 *of the score for each test, the answer sheets or other responses*
13 *submitted by each person who took each test, and the*
14 *documentation required by subdivision (f).*

15 *(k) (1) In addition to any applicable provisions of this*
16 *chapter, this article, except for Section 94854, subparagraph (B)*
17 *of paragraph (2) of subdivision (a) of Section 94859, and Section*
18 *94872, applies to any program in which ESL instruction is*
19 *offered.*

20 *(2) For the purpose of determining compliance with this*
21 *article, ESL instruction shall be deemed a course, and a charge*
22 *shall be deemed to be made for ESL instruction if a student is*
23 *obligated to make any payment in connection with the*
24 *educational service, including, but not limited to, the ESL*
25 *instruction that is offered by the institution.*

26 *(l) The tests used by an institution pursuant to this section*
27 *shall be tests that are approved by the United States Department*
28 *of Education or tests such as the Test of English as a Foreign*
29 *Language and the Comprehensive Adult Student Assessment*
30 *System that are generally recognized by public and private*
31 *institutions of higher learning in this state for the evaluation of*
32 *English language proficiency. An institution shall demonstrate to*
33 *the board that the tests and passing scores that it uses establish*
34 *that students have acquired the degree of proficiency in oral and*
35 *written English required by subdivision (d), (e), (f), or (g),*
36 *whichever is applicable. The required level of proficiency in oral*
37 *and written English shall not be lower than the 6th grade level.*

38 *(m) All tests shall be independently administered, without*
39 *charge to the student and in accordance with the procedures*
40 *specified by the test publisher. The tests shall not be administered*

1 by a previous or current owner, director, consultant, or
2 representative of the institution or by any person who previously
3 had, or currently has, a direct or indirect financial interest in the
4 institution other than the arrangement to administer the test. The
5 board shall adopt regulations that contain criteria to ensure
6 independent test administration including the criteria established
7 by the United States Department of Education and set forth on
8 pages 52160 and 52161 of Volume 55 of the Federal Register,
9 dated December 19, 1990.

10 (n) The board shall adopt regulations concerning the manner
11 of documenting the nature of a student's existing knowledge,
12 training, and skill and that ESL instruction offered by the
13 institution is necessary to enable the student to use that existing
14 knowledge, training, and skill, as prescribed in subdivision (f).
15 The regulations shall specify all of the following:

16 (1) Reliable sources of information, independent of the student
17 and the institution, from which documentation of a student's
18 existing knowledge, training, and skill shall be obtained.

19 (2) Circumstances that must be documented by the institution
20 to establish that information from a designated reliable source of
21 information cannot reasonably be obtained.

22 (3) Alternate acceptable sources of information if designated
23 reliable sources are not available.

24 (4) The nature of all required types of documentation.

25 (o) The board shall develop and distribute instructions,
26 informational materials, or forms to assist institutions in
27 developing the documentation described in this section. These
28 instructions, materials, and forms shall not be subject to review
29 or approval by the Office of Administrative Law pursuant to any
30 provision of the Government Code.

31 94903. No person shall own or operate a school, or give
32 instruction, for the driving of motortrucks of three or more axles
33 that are more than 6,000 pounds unladen weight unless all of the
34 following conditions are met:

35 (a) The school or instruction has been approved by the board.

36 (b) The school, at the time of application and thereafter,
37 maintains both of the following:

38 (1) Proof of compliance with liability insurance requirements
39 that are the same as those established by the Department of
40 Motor Vehicles for a driving school owner, pursuant to Section

1 *11103 of the Vehicle Code, unless the council deems it necessary*
2 *to establish a higher level of insurance coverage.*

3 *(2) A satisfactory safety rating by the Department of the*
4 *California Highway Patrol is established pursuant to Division*
5 *14.8 (commencing with Section 34500) of the Vehicle Code.*

6 *(c) The school, at all times, shall maintain the vehicles used in*
7 *driver training in safe mechanical condition. The school shall*
8 *keep all records concerning the maintenance of the vehicles.*

9 *(d) The driving instructors meet the requirements set forth in*
10 *Section 11104 of the Vehicle Code.*

11 *(e) Any other terms and conditions required by the board to*
12 *protect the public safety or to meet the requirements of this*
13 *chapter.*

14 *94920. (a) Faculty, instructors, and administrators shall*
15 *possess adequate academic, experiential, and professional*
16 *qualifications to teach the course or to perform the duties that*
17 *the person is assigned, and shall satisfy all standards established*
18 *by the board by regulation. No person shall serve as faculty, an*
19 *instructor, or a member of the administrative staff if that person*
20 *has been convicted of, or has pled nolo contendere or guilty to, a*
21 *crime involving the acquisition, use, or expenditure of federal or*
22 *state funds, or who has been judicially or administratively*
23 *determined to have committed any violation of this chapter or of*
24 *any law involving state or federal funds.*

25 *(b) The institution shall maintain current records for a period*
26 *of not less than five years at its principal place of business in*
27 *California, that are immediately available during normal*
28 *business hours for inspection and copying by the board or the*
29 *Attorney General and showing all of the following:*

30 *(1) The names and addresses of its faculty, instructors and*
31 *administrators, together with a record of the educational*
32 *qualifications of each.*

33 *(2) Certified copies of educational transcripts, where*
34 *applicable.*

35 *(3) Verified employment history.*

36 *(4) Other documentation of prior experience or education as*
37 *required by the board for verification.*

38 *(c) Instructors shall have all of the following qualifications:*

39 *(1) No record of any violations of this chapter.*

1 (2) *Faculty or an instructor for a program that leads to a*
2 *certificate or licensure shall possess a combination of at least*
3 *three years' experience and training or education in the*
4 *occupation or job title category for which the certification or*
5 *licensure is sought.*

6 (3) *Faculty or an instructor for a program that leads to a*
7 *degree shall possess a degree of equal or higher level in the*
8 *subject area for which certification is sought.*

9 (d) *Administrators shall have the following qualifications:*

10 (1) *Two years experience in an administrative position in a*
11 *public or an approved private postsecondary school.*

12 (2) *No record of any violations of this chapter or its*
13 *predecessor provisions.*

14 (e) *Financial aid directors shall have all of the following*
15 *qualifications:*

16 (1) *Five years' experience in an administrative position in the*
17 *financial aid office of a public or approved private*
18 *postsecondary school.*

19 (2) *Verification of completion within the previous two years of*
20 *a training seminar or workshop certified by the Student Aid*
21 *Commission as providing up-to-date comprehensive information*
22 *on financial aid programs and policies.*

23 (3) *No record of any violations of this chapter or its*
24 *predecessor provisions.*

25 (4) *Any other requirements the board deems necessary.*

26 (f) *Financial aid officers shall possess all of the following*
27 *qualifications:*

28 (1) *Verification of completion within the previous two years of*
29 *a training seminar or workshop certified by the Student Aid*
30 *Commission as providing up-to-date comprehensive information*
31 *on financial aid programs and policies.*

32 (2) *No record of any violations of this chapter or its*
33 *predecessor provisions.*

34 (3) *Other requirements the board deems necessary.*

35 (g) *Any individual filling a position left vacant by a previously*
36 *certified financial aid director or financial aid officer shall verify*
37 *with the council completion of the training referred to in*
38 *subparagraph (A) of paragraph (5) of subdivision (b) within one*
39 *year of accepting that position.*

1 (h) Faculty, instructors, and administrators shall maintain a
2 validated transcript evidencing the annual completion of three
3 continuing education units of recognized in-service training in
4 their education, job title category, or employment field at the
5 main location. These units may be completed through in-service
6 training offered by accrediting associations, professional
7 organizations, or board-approved programs.

8 (i) In addition to the requirements set forth in this section, the
9 board may impose additional requirements by regulation.

10
11 Article 9. Registered Institutions
12

13 94930. (a) No private postsecondary educational institution,
14 except those offering degrees and approved under Article 8
15 (commencing with Section 94900) or offering vocational and
16 nondegree granting programs and approved under Article 9
17 (commencing with Section 94915), or those that are exempt from
18 this chapter, may offer educational services or programs or
19 short-term educational programs unless the institution has been
20 registered by the board as meeting the requirements of this
21 article.

22 (b) An institution approved to offer degrees or vocational and
23 nondegree granting programs under Article 8 (commencing with
24 Section 94900) may offer registered short-term education
25 programs without affecting its status under either of those
26 articles so long as the registered short-term education program
27 is disclosed in its approval to operate application or the
28 institution completes a registration application and receives
29 specific authorization for the program, maintains compliance for
30 all registered programs in conformity with this article, and
31 maintains a set of student records for registered programs
32 separate from its approved programs. Any registered institution
33 that offers an educational program not specified in subdivision
34 (c) or not otherwise exempt from this chapter shall be approved
35 under Article 8 (commencing with Section 94900) and shall
36 comply with this chapter.

37 (c) Except as otherwise provided in this article, this chapter
38 does not apply to an educational service that qualifies for
39 registration status and that complies with this article. The

1 *educational services that qualify for registration status are*
2 *limited to:*

3 *(1) An educational service, as defined in Section 94733, that is*
4 *offered to provide an intensive English language program.*

5 *(2) An educational service, as defined in Section 94742.1, that*
6 *is offered to provide short-term career training.*

7 *(3) An educational service, as defined in Section 94742.2, that*
8 *is offered to provide short-term seminar training.*

9 *(4) An educational service that is offered to assist students to*
10 *prepare for an examination for licensure, except as provided in*
11 *Section 94787.*

12 *(5) An educational service that consists of continuing*
13 *education not otherwise exempt from this chapter.*

14 *(d) An institution that qualifies under any of paragraphs (1) to*
15 *(4), inclusive, of subdivision (c) shall complete a registration*
16 *form provided by the board, including a signed declaration by*
17 *the chief executive officer of the institution under penalty of*
18 *perjury, and provide all of the following information for public*
19 *disclosure:*

20 *(1) The owner's legal name, headquarters address, and the*
21 *name of an agent for the service of process within California.*

22 *(2) All names, whether real or fictitious, under which the*
23 *owner is doing and will do business.*

24 *(3) The names and addresses of the principal officers of the*
25 *institution.*

26 *(4) A list of all California locations at which the institution*
27 *operates, its offerings, and, if previously registered, the number*
28 *of students enrolled in California during the preceding year.*

29 *(5) A copy of the registration form or agreement that enrolls*
30 *the student in the educational service that contains all of the*
31 *following:*

32 *(A) The name and address of the location where instruction*
33 *will be provided.*

34 *(B) The title of the educational program.*

35 *(C) The total amount the student is obligated to pay for the*
36 *educational service.*

37 *(D) A clear and conspicuous statement that the enrollment*
38 *form or agreement is a legally binding instrument when signed*
39 *by the student and accepted by the institution.*

1 (E) *The refund policy developed by the institution unless this*
2 *article specifies a different refund policy.*

3 (F) *Unless this article specifies that the institution is required*
4 *to participate in the Student Tuition Recovery Fund, a statement*
5 *that the institution does not participate in that fund.*

6 (G) *In 10-point boldface type or larger, the following*
7 *statement:*

8 *“Any questions or problems concerning this school that have*
9 *not been satisfactorily answered or resolved by the school should*
10 *be directed to the Board for Private Postsecondary and*
11 *Vocational Education (insert city, address, CA ZIP Code*
12 *number, and telephone number).”*

13 (H) *Schools approved under paragraph (1) of subdivision (c)*
14 *of Section 94931 shall also include with the statement required*
15 *by subparagraph (G) information referring the student to a*
16 *consulate of his or her country and the United States Citizenship*
17 *and Immigration Services.*

18 (6) *A brochure or catalog and a sample advertisement used to*
19 *promote the educational service.*

20 (7) *A copy of its certificate of completion.*

21 (8) *If the educational service offers short-term career training,*
22 *the institution shall comply with the requirements of Sections*
23 *94804 and 94806.*

24 (9) *If the institution assists students in obtaining financing*
25 *from a third party for the cost of the educational services at the*
26 *institution, a copy of the contract or finance agreement reflecting*
27 *that financing.*

28 (e) *The board shall establish the initial registration fee and the*
29 *annual fee to be paid by institutions registered under this article.*
30 *No institution shall be registered pursuant to this article unless it*
31 *has paid the appropriate fees required by the board. Upon*
32 *receipt of an institution’s initial application for registration for a*
33 *program, the board may conduct a site visit pursuant to*
34 *subdivision (c) of Section 94915.*

35 (f) *For the purposes of communication with other state*
36 *agencies, any organization or individual registered to offer*
37 *short-term seminar training may state that they are “authorized”*
38 *by the State of California.*

39 (g) (1) *Except as provided by subdivision (f), any institution*
40 *registered pursuant to this article shall be restricted to stating*

1 *that their training is “registered” with the State of California*
2 *and is prohibited from using the words “approval,” “approved,”*
3 *“approval to operate,” “approved to operate,” “authorized,”*
4 *“licensed,” or “licensed to operate.”*

5 *(2) The institution shall place the following statement in all*
6 *brochures, catalogues, enrollment agreements, and registration*
7 *forms, in a conspicuous location in at least 12-point boldfaced*
8 *type:*

9 *“We are registered with the State of California. Registration*
10 *means we have met certain minimum standards imposed by the*
11 *state for registered schools on the basis of our written*
12 *application to the state. Registration does not mean we have met*
13 *all of the more extensive standards required by the state for*
14 *schools that are approved to operate or licensed or that the state*
15 *has verified the information we submitted with our registration*
16 *form.”*

17 *(h) The board may require, at least every three years*
18 *following the initial registration date, that a registered institution*
19 *verify all or part of the information required to be provided with*
20 *the registration form under subdivision (d).*

21 *(i) Sections 94812 and 94818, Sections 94822 to 94825,*
22 *inclusive, and Sections 94829 to 94838, inclusive, and Sections*
23 *94841 and 94846 shall apply to any institution registered*
24 *pursuant to this article.*

25 *(j) Article 1 (commencing with Section 94700), Article 2*
26 *(commencing with Section 94710), Article 3 (commencing with*
27 *Section 94750), Article 3.5 (commencing with Section 94760),*
28 *Article 4 (commencing with Section 94770), and Article 13*
29 *(commencing with Section 94950) shall apply to any institution*
30 *registered pursuant to this article.*

31 *94930.1. (a) Before accepting any consideration from a*
32 *student, an institution registered pursuant to this article shall*
33 *provide the student with an enrollment agreement or registration*
34 *form containing in a single document all of the terms related to*
35 *the instruction and payment. The agreement or registration form*
36 *shall contain all of the information set forth in paragraph (5) of*
37 *subdivision (d) of Section 94930.*

38 *(b) The enrollment agreement or registration form shall be*
39 *printed in at least 10-point type in English and, except for*
40 *educational services described in paragraph (1) of subdivision*

1 (c) of Section 94930, if any solicitation or negotiation leading to
2 the student's enrollment was in a language other than English, in
3 that other language. Institutions that provide educational
4 services described in paragraph (1) of subdivision (c) of Section
5 94930 shall provide in a written agreement with any agent or
6 representative that the agent or representative is required to
7 disclose to each prospective student in writing, in the language of
8 any solicitation or negotiation leading to the student's
9 enrollment, all of the information described in paragraph (5) of
10 subdivision (d) of Section 94930.

11 (c) If the institution fails to comply with this section, any
12 enrollment agreement or registration form shall be invalid and
13 the institution shall refund to the student all of the tuition paid by
14 the student to the institution.

15 (d) In addition to any other requirement in this article, each
16 institution registered under paragraph (2) of subdivision (c) of
17 Section 94930 shall provide to each prospective student all of the
18 information required by Section 94816 and shall be subject to
19 Section 94820 and Article 12 (commencing with Section 94944).

20 21 Article 10. Enforcement

22
23 94931. Within 30 days of any action by any accrediting
24 agency that establishes, reaffirms, or publicly sanctions the
25 accreditation of any private postsecondary educational
26 institution operating in the state, including those institutions that
27 satisfy the requirements of paragraph (7) of subdivision (b) of
28 Section 94739, the accrediting agency shall notify the board of
29 that action and shall provide a copy of any public statements
30 regarding the reasons for the accrediting agency's action.

31 94931.1. The board may refuse to issue or renew any private
32 postsecondary or vocational educational institution's approval to
33 operate, or may revoke any approval to operate for any one, or
34 any combination, of the following causes:

35 (a) A violation of this chapter, or any standard, rule, or
36 regulation established under this chapter, or an order of the
37 board made under this chapter.

38 (b) Furnishing false, misleading, or incomplete information to
39 the board, or the failure to furnish information requested by the
40 board or required by this chapter.

1 (c) A finding that an owner, a person in control, a secretary,
2 or an officer of an institution is not in compliance with this
3 chapter or was not in compliance with applicable law while
4 serving as an owner, person in control, secretary, or officer of an
5 institution within the previous five-year period.

6 (d) A finding that a signatory to an application for an
7 approval to operate was responsible for the closure of any
8 institution in which there were unpaid liabilities to any state or
9 federal government, or uncompensated pecuniary losses suffered
10 by students without restitution.

11 (e) A finding that the applicant, owner, or persons in control
12 have been found previously in any judicial or administrative
13 procedure to have violated this chapter or admitted to having
14 violated this chapter.

15 (f) A finding that there was either a denial of a previous
16 application submitted by the same institution to the board or a
17 revocation of the institution's approval and that the conditions or
18 violations that were the cause of the denial or revocation have
19 not been corrected.

20 (g) The failure of the institution to maintain the minimum
21 educational standards prescribed by this chapter, or to maintain
22 standards that are the same as, or substantially equivalent to,
23 those represented in the school's applications and advertising.

24 (h) Presenting to prospective students information that is false
25 or misleading relating to the school, to employment
26 opportunities, or to enrollment opportunities in institutions of
27 higher learning after entering into or completing courses offered
28 by the school.

29 (i) The failure to maintain financial resources adequate for the
30 satisfactory conduct of the courses of instruction offered as
31 required by statute.

32 (j) The failure to provide timely and correct refunds to
33 students.

34 (k) Paying a commission or valuable consideration to any
35 persons for acts or services in violation of this chapter.

36 (l) Attempting to confer a degree, diploma, or certificate to
37 any student in violation of this chapter.

38 (m) Misrepresenting to any students or prospective students
39 that they are qualified, upon completion of any course, for

1 admission to professional examination under any state
2 occupational licensing provision.

3 (n) The failure to correct any deficiency or act of
4 noncompliance under this chapter, or the standards, rules,
5 regulations, and orders established and adopted under this
6 chapter within reasonable time limits set by the board.

7 (o) The conducting of business or instructional services at any
8 location not approved by the board.

9 (p) Failure on the part of an institution to comply with
10 provisions of law or regulations governing sanitary conditions of
11 that institution specified in Division 2 (commencing with Section
12 500) and Division 3 (commencing with Section 5000) of the
13 Business and Professions Code.

14 (q) The failure to pay any fees, order for costs and expenses
15 under Section 94935, assessments, or penalties owed to the
16 board, as provided in this chapter.

17 94931.2. No institution, or representative of that institution
18 shall do any of the following:

19 (a) Operate in this state a postsecondary educational
20 institution not exempted from this chapter, unless the institution
21 is currently approved to operate pursuant to this chapter. The
22 board may institute an action, pursuant to Section 94955, to
23 prevent any individual or entity from operating an institution in
24 this state that has not been approved to operate pursuant to this
25 chapter and to obtain any relief authorized by that section.

26 (b) Offer in this state, as or through an agent, enrollment or
27 instruction in, or the granting of educational credentials from, an
28 institution not exempted from this chapter, whether that
29 institution is within or outside this state, unless that agent is a
30 natural person and has a currently valid agent's permit issued
31 pursuant to this chapter, or accept contracts or enrollment
32 applications from an agent who does not have a current permit
33 as required by this chapter. The board, however, may adopt
34 regulations to permit the rendering of legitimate public
35 information services without a permit.

36 (c) Instruct or educate, or offer to instruct or educate,
37 including soliciting for those purposes, enroll or offer to enroll,
38 contract or offer to contract with any person for that purpose, or
39 award any educational credential, or contract with any
40 institution or party to perform any act, in this state, whether that

1 *person, agent, group, or entity is located within or without this*
2 *state, unless that person, agent, group, or entity observes and is*
3 *in compliance with the minimum standards set forth in this*
4 *article and Article 7 (commencing with Section 94850), if it is*
5 *applicable, the criteria established by the board pursuant to*
6 *subdivision (b) of Section 94773, and the regulations adopted by*
7 *the board pursuant to subdivision (c) of Section 94773.*

8 *(d) Use, or allow the use of, any reproduction or facsimile of*
9 *the Great Seal of the State of California on any diploma.*

10 *(e) Promise or guarantee employment.*

11 *(f) Advertise concerning job availability, degree of skill and*
12 *length of time required to learn a trade or skill unless the*
13 *information is accurate and in no way misleading.*

14 *(g) Advertise, or indicate in any promotional material, that*
15 *correspondence instruction, or correspondence courses of study*
16 *are offered without including in all advertising or promotional*
17 *material the fact that the instruction or programs of study are*
18 *offered by correspondence or home study.*

19 *(h) Advertise, or indicate in any promotional material, that*
20 *resident instruction, or programs of study are offered without*
21 *including in all advertising or promotional material the location*
22 *where the training is given or the location of the resident*
23 *instruction.*

24 *(i) Solicit students for enrollment by causing any*
25 *advertisement to be published in "help wanted" columns in any*
26 *magazine, newspaper, or publication or use "blind" advertising*
27 *that fails to identify the school or institution.*

28 *(j) Advertise, or indicate in any promotional material, that the*
29 *institution is accredited, unless the institution has been*
30 *recognized or approved as meeting the standards established by*
31 *an accrediting agency recognized by the United States*
32 *Department of Education or the Committee of Bar Examiners for*
33 *the State of California.*

34 *(k) Fail to comply with federal requirements relating to the*
35 *disclosure of information to students regarding vocational and*
36 *career training programs, as described in Section 94816.*

37 *(l) Discontinuance of, or change in, an approved institutional*
38 *operation such as closure of a branch or satellite, without prior*
39 *notification to, and approval by, the board.*

1 94932. (a) No institution or representative of an institution
2 shall make or cause to be made any statement that is in any
3 manner untrue or misleading, either by actual statement,
4 omission, or intimation.

5 (b) No institution or representative of an institution shall
6 engage in any false, deceptive, misleading, or unfair act in
7 connection with any matter, including the institution's
8 advertising and promotion, the recruitment of students for
9 enrollment in the institution, the offer or sale of a program of
10 instruction, course length, course credits, the withholding of
11 equipment, educational materials, or loan or grant funds from a
12 student, training and instruction, the collection of payments, or
13 job placement.

14 (c) An institution is liable in any civil or administrative action
15 or proceeding for any violation of this article committed by a
16 representative of the institution. An institution is liable in a
17 criminal action for violations of this article committed by a
18 representative of the institution to the extent permitted by law.

19 (d) (1) No institution or representative of an institution shall
20 induce a person to enter into an agreement for a program of
21 instruction by offering to compensate that person to act as the
22 institution's representative in the solicitation, referral, or
23 recruitment of others for enrollment in the institution.

24 (2) No institution or representative of an institution shall offer
25 to pay or pay any consideration to a student or prospective
26 student to act as a representative of the institution with regard to
27 the solicitation, referral, or recruitment of any person for
28 enrollment in the institution in either of the following:

29 (A) During the 60-day period following the date on which the
30 student began the program.

31 (B) At any subsequent time, if the student has not maintained
32 satisfactory academic progress in acquiring the necessary level
33 of education, training, skill, and experience to obtain
34 employment in the occupation or job title to which the program is
35 represented to lead. The institution shall have the burden of
36 proof to establish that the student has maintained satisfactory
37 academic progress.

38 (e) No institution shall compensate a representative involved
39 in recruitment, enrollment, admissions, student attendance, or
40 sales of equipment to students on the basis of a commission,

1 *commission draw, bonus, quota, or other similar method except*
2 *as follows:*

3 *(1) If the program of instruction is scheduled to be completed*
4 *in 90 days or less, the institution shall pay compensation related*
5 *to a particular student only if that student completes the course.*

6 *(2) If the program of instruction is scheduled to be completed*
7 *in more than 90 days, the institution shall pay compensation*
8 *related to a particular student as follows:*

9 *(A) No compensation shall be paid for at least 90 days after*
10 *that student has begun the program.*

11 *(B) Up to one-half of the compensation may be paid before the*
12 *student completes the program only if the student has made*
13 *satisfactory academic progress, documented by the institution in*
14 *the student's file, for more than 90 days.*

15 *(C) The remainder of the compensation shall be paid only*
16 *after the student's completion of the program. This subdivision*
17 *shall not prevent the payment at any time of an hourly, weekly,*
18 *monthly, or annual wage or salary.*

19 *(3) No institution shall pay any consideration to any agent*
20 *subject to Section 94940 who has not complied with that section,*
21 *or enter into an agreement, as described in Section 94871, with*
22 *any person who was recruited or solicited to enroll in that*
23 *institution by an agent who was not in compliance with Section*
24 *94940 at the time of the recruitment or solicitation.*

25 *(4) No institution shall pay any consideration to any agency*
26 *subject to Section 94942 that has not complied with that section,*
27 *or enter into an agreement, as described in Section 94871, with*
28 *any person who was recruited or solicited to enroll in that*
29 *institution by an agency or by an agent employed by or under*
30 *contract with the agency if the agency was not in compliance*
31 *with Section 94942 at the time of the recruitment or solicitation.*

32 *(f) No institution or representative of an institution shall pay*
33 *any consideration to a person to induce that person to sign an*
34 *agreement for a program of instruction.*

35 *(g) No institution shall use a misleading name in any manner*
36 *implying any of the following:*

37 *(1) The institution is affiliated with any governmental agency,*
38 *public or private corporation, agency, or association.*

39 *(2) The institution is a public institution.*

40 *(3) The institution grants degrees.*

1 (h) (1) No institution or any representative of an institution
2 shall in any manner make any untrue or misleading change in, or
3 untrue or misleading statement related to, any test score, grade,
4 record of grades, attendance record, record indicating student
5 completion or employment, financial information, including any
6 of the following:

7 (A) Any financial report required to be filed pursuant to
8 Sections 94804 to 94808, inclusive.

9 (B) Any information or record relating to the student's
10 eligibility for financial assistance or attendance at the institution.

11 (C) Any other record or document required by this chapter or
12 by the board.

13 (2) No institution or any representative of an institution shall
14 falsify, destroy, or conceal any record or other item described in
15 paragraph (1) while that record or item is required to be
16 maintained by this chapter or by the board.

17 (i) No institution or representative of an institution shall use
18 the terms "approval," "approved," "approval to operate," or
19 "approved to operate" without stating clearly and conspicuously
20 that approval to operate means compliance with minimum state
21 standards and does not imply any endorsement or
22 recommendation by the state or by the board. If the board has
23 granted an institution approval to operate, the institution or its
24 representative may indicate that the institution is "licensed" or
25 "licensed to operate" but may not state or imply any of the
26 following:

27 (1) The institution or its programs of instruction are endorsed
28 or recommended by the state or by the board.

29 (2) The board's grant to the institution of approval to operate
30 indicates that the institution exceeds minimum state standards.

31 (3) The board or the state endorses or recommends the
32 institution.

33 (j) No institution offering programs or courses of instruction
34 represented to lead to occupations or job titles requiring
35 licensure shall enter into an agreement for a course of
36 instruction with a person whom the institution knows or, by the
37 exercise of reasonable care, should know, would be ineligible to
38 obtain licensure in the occupation or job title to which the course
39 of instruction is represented to lead, at the time of the scheduled

1 *date of course completion, for reasons such as age, physical*
2 *characteristics, or relevant past criminal conviction.*

3 *(k) No institution shall divide or structure a program of*
4 *instruction or educational service to avoid the application of any*
5 *provision of this chapter.*

6 *(l) No institution or representative of an institution shall direct*
7 *a representative to perform any unlawful act, to refrain from*
8 *complaining or reporting unlawful conduct to the board or*
9 *another government agency, or to engage in any unfair act to*
10 *persuade a student not to complain to the board or another*
11 *government agency.*

12 *94933. (a) Any person or business entity, regardless of the*
13 *form of organization that willfully violates Section 94800,*
14 *Sections 94810 to 94826, inclusive, or Section 94828, 94829,*
15 *94931.2, or 94932 is guilty of a crime and shall be subject to*
16 *separate punishment for each violation either by imprisonment in*
17 *a county jail not to exceed one year, by a fine not to exceed ten*
18 *thousand dollars (\$10,000), or by both that imprisonment and*
19 *fine; or by imprisonment in the state prison, by a fine not to*
20 *exceed fifty thousand dollars (\$50,000), or by both that*
21 *imprisonment and fine.*

22 *(b) Notwithstanding any other law, any prosecution under this*
23 *section shall be commenced within three years of the discovery of*
24 *the facts constituting grounds for commencing the prosecution.*

25 *(c) The penalties provided by this section supplement, but do*
26 *not supplant, the remedies and penalties provided under other*
27 *law.*

28 *(d) In addition to any other fines or penalties imposed*
29 *pursuant to this section, any person or business entity found*
30 *guilty of a crime as described in subdivision (a) shall be ordered*
31 *to pay the Attorney General, any district attorney, or any city*
32 *attorney all of their costs and expenses in connection with any*
33 *investigation incident leading to that prosecution. An institution*
34 *shall not be required to pay the same costs and expenses to more*
35 *than one investigating agency.*

36 *94934. Before any institution may be considered for approval*
37 *or renewal of approval to operate, the institution, at a minimum,*
38 *shall pay all annual fees, assessments to the Student Tuition*
39 *Recovery Fund, orders for costs and expenses under Section*
40 *94935, and penalties in arrears retroactive to January 1, 1990. If*

1 *an institution that has failed to make timely payments of fees and*
2 *assessments is approved, the approval shall be conditional,*
3 *subject to any restrictions the board deems appropriate, and*
4 *shall be valid for a period not to exceed two years.*

5 94935. (a) *If an institution does not comply with Section*
6 *94804, the council may do any or any combination of the*
7 *following:*

8 (1) *Require the institution to establish and implement a*
9 *financial plan to ensure compliance with Section 94804.*

10 (2) *Require the institution to post satisfactory security for the*
11 *performance of its financial obligations pursuant to Section*
12 *94804.*

13 (3) *Require the institution to furnish additional information*
14 *such as an audit report of financial statements prepared by a*
15 *California licensed certified public accountant who is not an*
16 *employee, officer, or director of the institution.*

17 (4) *Proceed pursuant to Section 94879.*

18 (b) *In any action or proceeding involving an institution's*
19 *failure to comply with Section 94804, there shall be a*
20 *presumption affecting the burden of proof that the institution*
21 *does not have sufficient financial resources if the institution fails*
22 *to meet any of the standards set forth in Section 94804.*

23 94936. *If any person willfully violates this chapter and the*
24 *violation results in the closure of an institution, that person shall*
25 *pay to all students of the closed institution full refunds or full*
26 *compensation for actual damages resulting from the closure that*
27 *were not paid by the closed institution.*

28 94936.1. (a) *If the board, the Attorney General, any district*
29 *attorney or city attorney, or the Student Aid Commission is*
30 *conducting a confidential investigation of an institution and so*
31 *informs the accrediting agency, the accrediting agency shall not*
32 *inform that institution of the investigation.*

33 (b) *If an accrediting agency willfully fails to comply with this*
34 *section, the accrediting agency shall be liable for a civil penalty*
35 *of not less than two thousand five hundred dollars (\$2,500) or*
36 *more than twenty-five thousand dollars (\$25,000) for each*
37 *violation. Penalties awarded pursuant to this section shall be*
38 *deposited in the Private Postsecondary and Vocational*
39 *Education Administration Fund or any successor fund.*

1 94937. (a) If an institution violates this article or Section
2 94932 or commits an act as set forth in Section 94931.1 in
3 connection with an agreement for a course of instruction, that
4 agreement shall be unenforceable, and the institution shall
5 refund all consideration paid by or on behalf of the student.

6 (b) Notwithstanding any provision in an agreement, a student
7 may bring an action for a violation of this article or Section
8 94932 or an institution's failure to perform its legal obligations
9 and, upon prevailing, shall be entitled to the recovery of
10 damages, equitable relief, any other relief authorized by this
11 article, and reasonable attorney's fees and costs.

12 (c) If a court finds that a violation was willfully committed or
13 that the institution failed to refund all consideration as required
14 by subdivision (a) on the student's written demand, the court, in
15 addition to the relief awarded under subdivision (b), shall award
16 a civil penalty of up to two times the amount of the damages
17 sustained by the student.

18 (d) The remedies provided in this article supplement, but do
19 not supplant, the remedies provided under other provisions of
20 law.

21 (e) An action brought under this section shall be commenced
22 within three years of the discovery of the facts constituting
23 grounds for commencing the action.

24 (f) Any provision in any agreement that purports to require a
25 student to invoke any grievance dispute procedure established by
26 the institution or any other procedure before bringing an action
27 to enforce any right or remedy is void and unenforceable.

28 (g) A student may assign his or her causes of action for a
29 violation of this article to the board, or to any state or federal
30 agency that guaranteed or reinsured a loan for the student or
31 provided any grant or other financial aid.

32 (h) This section applies to any action pending under former
33 Chapter 7 (commencing with Section 94700) on January 1, 1990.

34 (i) If a student commences an action or asserts any claim in an
35 existing action for recovery on behalf of a class of persons, or on
36 behalf of the general public, under Section 17200 of the Business
37 and Professions Code, the student shall notify the board of the
38 existence of the lawsuit, the court in which the action is pending,
39 the case number of the action, and the date of the filing of the
40 action or of the assertion of the claim. The student shall notify

1 *the board as required by this subdivision within 30 days of the*
2 *filing of the action or of the first assertion of the claim,*
3 *whichever is later. The student shall also notify the court that he*
4 *or she has notified the board pursuant to this subdivision.*
5 *Notwithstanding any other provision of law, no judgment may be*
6 *entered pursuant to this section until the student has notified the*
7 *board of the suit and notified the court that the board has been*
8 *notified. This subdivision only applies to a new action filed or to*
9 *a new claim asserted on or after January 1, 2002.*

10 94938. (a) *An institution is legally authorized to provide*
11 *courses of instruction if the institution complies with both this*
12 *article and Sections 94931.2, 94932, and 94985, or former*
13 *Section 94320 as that section was in effect on January 1, 1991,*
14 *has received approval from the board, and has not been found to*
15 *be in violation of this article by the board, the Student Aid Board,*
16 *or a court. No institution shall offer any course of instruction if*
17 *the institution's approval to offer that course of instruction has*
18 *been suspended or revoked.*

19 (b) (1) *The board, after notice and, if requested by the*
20 *institution, a hearing as provided in Section 94965 or 94975,*
21 *may suspend or revoke an institution's approval to operate or*
22 *approval to operate a branch or satellite campus or may order*
23 *that an institution cease offering a class or course of instruction*
24 *because of any violation of this article, Section 94931.2, 94932,*
25 *or 94985, or former Section 94320 as that section was in effect*
26 *on January 1, 1991, or any regulation or order issued pursuant*
27 *to this article.*

28 (2) *If the board takes any of the actions described in*
29 *paragraph (1), the board may permit the institution to continue*
30 *to offer the class or course of instruction to students already*
31 *enrolled or may order the institution to cease instruction and*
32 *provide a refund of tuition and all other charges to students.*

33 (c) *If the board determines after notice and if requested by the*
34 *institution, a hearing, that an institution has violated this article,*
35 *Section 94931.2, 94932, or 94985, or former Section 94320 as*
36 *that section was in effect on January 1, 1991, but that the*
37 *institution's approval to operate, or approval to operate a*
38 *branch or satellite campus should not be suspended or revoked,*
39 *or that the institution should not be ordered to cease offering a*

1 *class or program of instruction, the board may do any or all of*
2 *the following:*

3 *(1) Place the institution, or branch or satellite campus, on*
4 *probation under reasonable terms and conditions for a specified*
5 *period of time not to exceed two years.*

6 *(2) Order the institution to post a bond.*

7 *(3) Order the institution not to enter into new agreements for*
8 *courses of instruction.*

9 *(d) During the period of probation, the institution, or the*
10 *branch or satellite or both the institution and the branch or*
11 *satellite campus, shall be subject to monitoring that may include*
12 *the required submission of periodic reports, as prescribed by the*
13 *board and special onsite inspections to determine progress*
14 *toward compliance. The onsite inspections may include an*
15 *inspection of the institution's facilities and records, interviews of*
16 *administrators, faculty, and students, and observation of class*
17 *instruction. The board shall order the institution to reimburse all*
18 *reasonable costs and expenses incurred by the board in*
19 *connection with this subdivision. The board may make the*
20 *payment of the order for reimbursement a condition of probation.*

21 *(e) If, at the period of probation, the board is not satisfied with*
22 *the steps taken by the institution to eliminate the violations of this*
23 *article, Sections 94931.2, 94932, and 94985, or former Section*
24 *94320 as that section was in effect on January 1, 1991, upon*
25 *which the probation was based, the board may revoke the*
26 *institution's approval to operate or the institution's approval to*
27 *operate a branch or satellite campus.*

28 *(f) The board may assess a penalty of up to ten thousand*
29 *dollars (\$10,000) as part of a probation order for violations of*
30 *this article, Sections 94931.2, 94932, and 94985, or former*
31 *Section 94320 as that section was in effect on January 1, 1991.*
32 *In determining the amount of that penalty, the board shall*
33 *consider the number and gravity of the violations, the degree of*
34 *the institution's good faith or culpability, the history of the*
35 *institution's previous violations, and the institution's ability to*
36 *pay. If the institution fails to pay a penalty within the time*
37 *prescribed by the board the institution's approval to operate the*
38 *institution, or approval to operate a branch or satellite campus,*
39 *shall be automatically suspended until the penalty is paid in full.*

1 (g) (1) Any bond ordered by the board shall be issued by an
2 admitted surety insurer in an amount established at the
3 discretion of the board that is sufficient to protect students from
4 the potential consequences of the violation.

5 (2) The bond shall be in favor of the State of California for the
6 indemnification of any person for any loss, including the loss of
7 prepaid tuition, suffered as a result of the occurrence of any
8 violation of this chapter during the period of coverage.

9 (3) Liability on the bond may be enforced after a hearing
10 before the board, after 30 days' advance written notice to the
11 principal and surety. The board shall adopt regulations
12 establishing the procedure for administrative enforcement of
13 liability. This paragraph supplements, but does not supplant, any
14 other rights or remedies to enforce liability on the bond.

15 (4) The board may order the institution to file reports at any
16 interval the board deems necessary to enable the board to
17 monitor the adequacy of the bond coverage and to determine
18 whether further action is appropriate.

19 (h) The board shall determine an institution's compliance,
20 including the compliance of its branch and satellite campuses,
21 with this article, Sections 94931.2, 94932, and 94985, or former
22 Section 94320 as that section was in effect on January 1, 1991,
23 and shall not be bound by the findings or conclusions of any
24 accrediting agency.

25 (i) The board may revoke the approval to operate of any
26 institution that fails to pay an order imposing a penalty or an
27 order for the reimbursement of costs and expenses. The board
28 may enforce any administrative order requiring the payment of
29 money in the same manner as if it were a money judgment
30 pursuant to Title 9 (commencing with Section 680.010) of Part 1
31 of the Code of Civil Procedure. All penalties and reimbursements
32 paid pursuant to this section shall be deposited in the vocational
33 education account in the Private Postsecondary and Vocational
34 Education Administration Fund established pursuant to Section
35 94932.

36 (j) Proceedings by the board under this section shall be
37 conducted in accordance with regulations adopted by the board
38 or, if there are no regulations establishing hearing procedures,
39 Section 94965 or 94975, and the board shall have all of the
40 powers granted therein.

1 94939. The board may suspend or revoke an institution's
2 approval to operate or order probation or the posting of a bond,
3 as provided in Section 94878, for any of the following reasons:

4 (a) The institution has failed to make timely refunds to, or on
5 behalf of students, as required by Sections 94867, 94869, 94870,
6 and 94877, or has not satisfied, within 30 days of its issuance, a
7 final judgment obtained by a student against the institution.

8 (b) The institution or an owner, person in control, director, or
9 officer of the institution is, or has been, found in any criminal,
10 civil, or administrative proceeding, after notice and an
11 opportunity to be heard, to have violated any law regarding the
12 obtaining, maintenance, or disbursement of state or federal loan
13 or grant funds, or any other law substantially related to the
14 operation of the institution.

15 (c) The institution, or a person in control of the institution is,
16 or has been, found in any criminal, civil, or administrative
17 proceeding, after notice and an opportunity to be heard, to have
18 unpaid financial liabilities involving the refund or unlawful
19 acquisition, use, or expenditure of state or federal financial aid
20 funds.

21 (d) (1) All of the following are, or have been, found in any
22 criminal, civil, or administrative proceeding:

23 (A) A person in control of the institution was a person in
24 control of another institution within one year before that
25 institution's closure.

26 (B) While the person was acting as a person in control of the
27 other institution, the person knew or, by the exercise of
28 reasonable care, should have known that the institution violated
29 this chapter.

30 (C) That violation was a cause of that institution's closure or
31 of damage to students.

32 (D) That institution did not pay to all students refunds owed as
33 a result of the closure and full compensation for actual damages
34 from that violation.

35 (E) The person in control has not paid to all students of the
36 closed institution refunds owed and full compensation for actual
37 damages resulting from the closure that were not paid by the
38 closed institution. For the purpose of this subdivision, "closure"
39 includes closure of a branch or satellite campus, the termination
40 of either the correspondence or residence portion of a

1 *home-study or correspondence course, and the termination of a*
2 *course of instruction for some or all of the students enrolled in*
3 *the course before the time these students were originally*
4 *scheduled to complete it, or before a student who has been*
5 *continually enrolled in a course of instruction has been permitted*
6 *to complete all the educational services, and the classes that*
7 *comprise the course.*

8 94939.1. (a) *The board may bring an action for equitable*
9 *relief for any violation of this article in addition to, or instead of,*
10 *any other remedy or procedure.*

11 (b) *The suspension or revocation of an institution's approval*
12 *to operate also may be embraced in any action otherwise proper*
13 *in any court involving the institution's compliance with this*
14 *chapter or performance of its legal obligations.*

15 94939.2. (a) *For the purposes of this section, the following*
16 *definitions apply:*

17 (1) *"Document or record" means any test score, grade,*
18 *record of grades, attendance record, record indicating student*
19 *course completion or employment, financial information,*
20 *including any financial report required to be filed pursuant to*
21 *Sections 94861 and 94862, information or records relating to the*
22 *student's eligibility for financial assistance or attendance at the*
23 *institution, or any other record or document required by this*
24 *chapter or by the board.*

25 (2) *"Person" means a natural person and any business entity,*
26 *regardless of the form of organization.*

27 (b) *Any person who, in any manner, makes or causes to be*
28 *made any untrue or misleading statement in connection with*
29 *offering or providing a course of instruction, or who makes or*
30 *causes to be made any untrue or misleading change in any*
31 *document or record and who knows or, by the exercise of*
32 *reasonable care, should know that the statement or change is*
33 *untrue or misleading is guilty of a crime, punishable as provided*
34 *in subdivision (e).*

35 (c) *Any person who willfully falsifies, destroys, fails to*
36 *maintain, or conceals any document or record that is required to*
37 *be maintained by this chapter or by the board is guilty of a*
38 *crime, punishable as provided in subdivision (e).*

39 (d) *Any person who is required to file any report required by*
40 *paragraph (3) of subdivision (f) of Section 94854, or Section*

1 94861 or 94862 and who willfully fails to file that report as
2 required, or willfully violates or causes the violation of
3 subdivision (b) of Section 94874, is guilty of a crime and is
4 subject to punishment for each violation as provided in
5 paragraph (2) of subdivision (e).

6 (e) Any person who violates subdivision (b) or (c), or who
7 willfully violates Section 94931.2, 94932, 94853, or 94985, or
8 former Section 94320 as that section was in effect January 1,
9 1991, is guilty of a crime and is subject to separate punishment
10 for each violation either by:

11 (1) Imprisonment in the state prison, by a fine not to exceed
12 fifty thousand dollars (\$50,000), or by both that imprisonment
13 and fine.

14 (2) Imprisonment in a county jail not to exceed one year, by a
15 fine not to exceed ten thousand dollars (\$10,000), or by both that
16 imprisonment and fine.

17 (f) Notwithstanding any other law, any prosecution under this
18 section shall be commenced within three years of the discovery of
19 the facts constituting grounds for commencing the prosecution.

20 (g) The penalties provided by this section supplement, but do
21 not supplant, the remedies and penalties provided under other
22 law.

23 94946. (a) Any institution that willfully violates Section
24 94945 shall be subject to all of the following:

25 (1) The institution shall lose all rights to enforce the terms of
26 any contract or agreement arising from the transaction in which
27 the violation occurred.

28 (2) The institution shall refund to the student any fees that it
29 has collected from that student.

30 (b) An institution's willful violation of Section 94945 may be
31 grounds for the revocation of that institution's approval to
32 operate in this state.

33
34 Article 11. Agents and Agencies
35

36 94940. (a) Notwithstanding any other provision of this
37 chapter concerning agents, the owner of at least 51 percent of
38 the equitable interest in an institution shall be exempt from this
39 section if the institution is approved to operate pursuant to

1 Article 8 (commencing with Section 94900) or Article 9
2 (commencing with Section 94930).

3 (b) No person may act as an agent, unless that person holds a
4 valid permit issued by the board and maintains at all times a
5 surety bond as described in paragraph (2). Administrators or
6 faculty, or both, who make informational public appearance, but
7 whose primary task is not to serve as a paid recruiter, are exempt
8 from this section.

9 (c) The application for a permit shall be furnished by the
10 board, and shall include all of the following:

11 (1) A statement signed by the applicant that he or she has read
12 this chapter and the regulations adopted pursuant thereto.

13 (2) A surety bond issued by an admitted surety insurer in favor
14 of the State of California for the indemnification of any person
15 for any loss suffered as a result of the occurrence, during the
16 period of coverage, of any fraud or misrepresentation used in
17 connection with the solicitation for the sale or the sale of any
18 program of study, or as a result of any violation of this chapter.
19 The term of the bond shall extend over the period of the permit.
20 The bond may be supplied by the institution or by the person for
21 whom the issuance of the permit is sought and may extend to
22 cover individuals separately or to provide blanket coverage for
23 all persons to be engaged as representatives of the institution.
24 The bond shall provide for liability in the penal sum of
25 twenty-five thousand dollars (\$25,000) for each agent to whom
26 coverage is extended by its terms. Neither the principal nor the
27 surety on a bond may terminate the coverage of the bond, except
28 upon giving 30 days' prior written notice to the board, and
29 contemporaneously surrendering the agent's permit. Liability on
30 the bond may be enforced after a hearing before the board, after
31 30 days' advance written notice to the principal and surety. The
32 board shall adopt regulations establishing the procedure for
33 administrative enforcement of liability. This paragraph
34 supplements, but does not supplant, any other rights or remedies
35 to enforce liability on the bond.

36 (3) A fee as required by Section 94790.

37 (d) An agent representing more than one institution shall
38 obtain a separate agent's permit and bond for each institution
39 represented.

1 (e) No person shall be issued a permit if he or she previously
2 has been found in any judicial or administrative proceeding to
3 have violated this chapter, or there exists any of the grounds for
4 denial set forth in Section 480 of the Business and Professions
5 Code.

6 (f) A permit shall be valid for the calendar year in which it is
7 issued, unless sooner revoked or suspended by the board for
8 fraud or misrepresentation in connection with the solicitation for
9 the sale of any course of study, for any violation of this chapter,
10 or for the existence of any condition in respect to the permittee or
11 the school he or she represents which, if in existence at the time
12 the permit was issued, would have been grounds for denial of the
13 permit.

14 (g) The permittee shall carry the permit with him or her for
15 identification purposes when engaged in the solicitation of sales
16 and the selling of courses of study away from the premises of the
17 school, and shall produce the permit for inspection upon the
18 request of any person.

19 (h) Chapter 5 (commencing with Section 11500) of Part 1 of
20 Division 3 of Title 2 of the Government Code or Section 94975
21 shall apply to any determination of the board made pursuant to
22 this section.

23 (i) The issuance of a permit pursuant to this section shall not
24 be interpreted to mean, and it shall be unlawful for any
25 individual holding any permit to expressly or impliedly represent
26 by any means whatsoever, that the board has made any
27 evaluation, recognition, accreditation, or endorsement of any
28 course of study being offered for sale by the individual.

29 (j) It is unlawful for any individual holding a permit under this
30 section to expressly or impliedly represent, by any means
31 whatsoever, that the issuance of the permit constitutes an
32 assurance by the board that any course of study being offered for
33 sale by the individual will provide and require of the student a
34 course of education or training necessary to reach a
35 professional, educational, or vocational objective, or will result
36 in employment or personal earnings for the student.

37 (k) No agent shall make any untrue or misleading statement or
38 engage in sales, collection, credit, or other practices of any type
39 that are false, deceptive, misleading, or unfair.

1 *(l) The board shall maintain records for five years of each*
2 *application for a permit, each bond, and each issuance, denial,*
3 *termination, suspension, and revocation of a temporary permit or*
4 *permit.*

5 *(m) A student may bring an action for an agent's violation of*
6 *this chapter or any fraud or misrepresentation and, upon*
7 *prevailing, is entitled to the recovery of damages, reasonable*
8 *attorney's fees, and costs. If a court finds that the violation was*
9 *willfully committed, the court, in addition to the award of*
10 *damages, shall award a civil penalty of up to two times the*
11 *amount of damages sustained by the student.*

12 *(n) Any person who violates this section is guilty of a*
13 *misdemeanor, punishable by imprisonment in a county jail not*
14 *exceeding six months, by a fine not to exceed five thousand*
15 *dollars (\$5,000), or by both that imprisonment and fine.*

16 94942. *(a) Except as provided in subdivision (g), any agency*
17 *shall be required to hold a valid authorization issued by the*
18 *board. The application for an authorization shall include all of*
19 *the following:*

20 *(1) A current financial statement prepared by a California*
21 *licensed certified public accountant who is not an employee,*
22 *officer, or director of the institution.*

23 *(2) Evidence of a surety bond issued in favor of the State of*
24 *California by an admitted surety insurer making provision for*
25 *indemnification of any person for any loss suffered as a result of*
26 *the occurrence, during the period of coverage, of any fraud or*
27 *misrepresentation used in connection with the solicitation for the*
28 *sale or the sale of any program of study, or as a result of any*
29 *violation of this chapter. The term of the bond shall extend over*
30 *the period of the authorization. The bond shall provide for*
31 *liability in the penal sum of two hundred fifty thousand dollars*
32 *(\$250,000) for each agency to which coverage is extended by its*
33 *terms. Neither the principal nor the surety on a bond may*
34 *terminate the coverage of the bond except upon giving 30 days'*
35 *prior written notice to the board, and upon contemporaneously*
36 *surrendering the agency's authorization to operate. Liability on*
37 *the bond may be enforced after a hearing before the board, after*
38 *30 days' advance written notice to the principal and surety. The*
39 *board shall adopt regulations establishing the procedure for*
40 *administrative enforcement of liability and hearings under this*

1 *section. This paragraph supplements, but does not supplant, any*
2 *other rights or remedies to enforce liability on the bond.*

3 *(3) A copy of the student disclosure statement to be read and*
4 *signed by all prospective students referred to institutions by an*
5 *agency. The student disclosure statement shall include, but shall*
6 *not necessarily be limited to, all of the following:*

7 *(A) A statement to the effect that no promise of employment*
8 *has been made by the agency.*

9 *(B) A statement to the effect that repayment of any debt*
10 *incurred by a student in connection with his or her education will*
11 *be the sole responsibility of the student.*

12 *(C) The amount and terms of any fee to be paid by the student*
13 *to the agency.*

14 *(D) A verbatim statement, as follows: "Any questions or*
15 *problems concerning this agency should be directed to the Board*
16 *for Private Postsecondary and Vocational Education,*
17 *Sacramento, CA 95814."*

18 *(E) A statement to the effect that the institution or institutions*
19 *to which the prospective student is referred by the agency have*
20 *the obligation to make available to the student a catalog or*
21 *brochure containing information describing all of the following:*

22 *(i) The courses offered.*

23 *(ii) Program objectives.*

24 *(iii) Length of program.*

25 *(iv) The faculty and their qualifications.*

26 *(v) A schedule of tuition, fees, and all other charges and*
27 *expenses necessary for the completion of the course of study.*

28 *(vi) The cancellation and refund policies.*

29 *(vii) The total cost of tuition over the period needed to*
30 *complete the student's education.*

31 *(viii) For vocational training programs, placement data,*
32 *including program completion rates, placement rates, and*
33 *starting salaries.*

34 *(ix) Other material facts concerning the institution and the*
35 *program or course of instruction that are reasonably likely to*
36 *affect the decision of the student to enroll in the institution.*

37 *(4) Identification of all employees of the agency and their*
38 *titles, and of all agents with whom the agency contracts.*

1 (5) *Identification of all owners, and if the entity is a*
2 *corporation, the identification of all persons possessing an*
3 *interest equal to, or in excess, of 10 percent.*

4 (6) *Identification of all vendors of educational services for*
5 *which the agency provides recruitment services.*

6 (7) *A signed statement by the applicant that all employees*
7 *engaged in recruitment activities will be required to read*
8 *Sections 94831, 94832, and 94985 and, if the educational*
9 *program for which the agency recruits is subject to Section*
10 *94853.*

11 (b) *Within 30 days of receipt of a completed application and*
12 *prior to issuance of an authorization a representative of the*
13 *board shall inspect the applicant agency and verify the*
14 *application. Within 30 days of the inspection, the board shall*
15 *issue the authorization for a one-year period, subject to annual*
16 *renewal at the end of that period, or deny the application. The*
17 *board shall deny the authorization if the agency or any owner,*
18 *officer, or Secretary of the agency previously has been found in*
19 *any judicial or administrative proceeding to have violated this*
20 *chapter, or if there exists any of the grounds for denial set forth*
21 *in Section 480 of the Business and Professions Code.*

22 (c) *Any employee of an authorized agency engaged in student*
23 *recruitment activities of an authorized agency is exempt from the*
24 *bond requirements of Section 94940.*

25 (d) *Neither the agency nor any of its employees shall make any*
26 *untrue or misleading statement in the course of any solicitation*
27 *or recruitment activity or engage in the sales, collection, credit,*
28 *or other practices of any type that are false, deceptive,*
29 *misleading, or unfair.*

30 (e) *An agency or an employee of an agency shall provide a*
31 *prospective student with the disclosure statement described in*
32 *paragraph (3) of subdivision (a) and shall allow the prospective*
33 *student a sufficient opportunity to read it before soliciting or*
34 *recruiting him or her for enrollment or referring him or her to an*
35 *institution. That disclosure statement shall be printed in 10-point*
36 *type in English and, if the solicitation, recruitment, or referral is*
37 *to be conducted in a language other than English, in that other*
38 *language.*

39 (f) *Any institution approved under this chapter shall cease any*
40 *and all recruitment activities involving the agency upon action by*

1 *the board to revoke or deny an agency's authorization. The*
2 *failure of the institution to do so upon presentation of notice of*
3 *the board's action shall be cause to deny or revoke any approval*
4 *held by that institution.*

5 *(g) This section does not apply to any agency recruiting solely*
6 *for institutions described in Article 8 (commencing with Section*
7 *94900).*

8 *(h) The board shall maintain records for five years of each*
9 *application for an authorization, each verification by the board*
10 *of an application, each bond, and each denial, issuance, and*
11 *revocation of an authorization.*

12 *(i) A student may bring any action against any agency if the*
13 *agency or an employee of the agency violates this chapter or*
14 *commits any fraud or misrepresentation and, upon prevailing, is*
15 *entitled to the recovery of damages, reasonable attorney's fees,*
16 *and costs. If a court finds that the violation was willfully*
17 *committed, the court shall, in addition to the award of damages,*
18 *award a civil penalty of up to two times the amount of damages*
19 *sustained by the student.*

20 *(j) Any person who violates this section is guilty of a*
21 *misdemeanor punishable by imprisonment in a county jail not*
22 *exceeding six months, by a fine not to exceed five thousand*
23 *dollars (\$5,000), or by both that imprisonment and fine.*

24 *94943. (a) In addition to making any other required*
25 *disclosures, a representative of an institution who in any manner*
26 *solicits or recruits any person in person at any place other than*
27 *the institution's premises or by telephone for enrollment in a*
28 *course of instruction shall disclose the following, orally, and, if*
29 *the solicitation is in person, in a correctly dated written*
30 *document given to the person and printed in at least 10-point*
31 *type and signed by the representative.*

32 *(1) The representative is a paid recruiter for an institution and*
33 *the institution is not a public school.*

34 *(2) The representative is not offering a job, making job*
35 *referrals, or conducting a survey.*

36 *(3) There is no guarantee of a job after a student graduates*
37 *from the course of instruction.*

38 *(4) The total charge for the course of instruction or if the*
39 *solicitation or recruitment is for more than one course, the range*
40 *of the total charges for the courses offered.*

1 (b) *The representative shall make the disclosures required by*
2 *paragraphs (1) to (3), inclusive, of subdivision (a) before*
3 *attempting to solicit or recruit any person. The representative*
4 *shall make the disclosure required by paragraph (4) of*
5 *subdivision (a) before the end of a solicitation or attempt to*
6 *recruit any person.*

7 (c) *A representative who solicits or recruits any person as*
8 *described in subdivision (a) shall provide the person with a copy*
9 *of the institution's current catalog or brochure, containing the*
10 *information described in paragraph (4) of subdivision (a) of*
11 *Section 94859, which the person may obtain without charge. The*
12 *institution or its representative shall provide the catalog or*
13 *brochure required by this subdivision at the time of an in-person*
14 *solicitation or recruitment or send the catalog brochure within*
15 *two days of a telephonic solicitation or recruitment.*

16 (d) *No institution shall enter an agreement for a course of*
17 *instruction with, or prepare or assist in preparation of a student*
18 *loan or grant application for, a person solicited or recruited as*
19 *described in subdivision (a) within three days of the date on*
20 *which the person was solicited or recruited.*

21 (e) *This section does not apply to solicitations or presentations*
22 *made at informational public appearances directed to five or*
23 *more people or to advertisements in print or broadcast media.*
24

25 *Article 12. Student Tuition Recovery Fund Continued and*
26 *Student Obligations*
27

28 94944. (a) *The Student Tuition Recovery Fund is continued*
29 *in existence. All assessments collected pursuant to Section 94945*
30 *shall be credited to this fund, along with any interest on the*
31 *moneys, for the administration of this article. Notwithstanding*
32 *Section 13340 of the Government Code, the moneys in the fund*
33 *are continuously appropriated to the board without regard to*
34 *fiscal years for the purposes of this chapter. The fund shall*
35 *consist of a degree-granting postsecondary educational*
36 *institution account, a vocational educational institution account,*
37 *and an account for institutions approved under any provision of*
38 *this chapter that charge each enrolled student a total charge, as*
39 *defined in subdivision (k) of Section 94852, of less than one*
40 *thousand dollars (\$1,000), for the purpose of relieving or*

1 *mitigating pecuniary losses suffered by any California resident*
2 *who is a student of an approved institution and who meets either*
3 *of the following conditions:*

4 *(1) (A) The student was enrolled in an institution, prepaid*
5 *tuition, and suffered loss as a result of any of the following:*

6 *(i) The closure of the institution.*

7 *(ii) The institution's failure to pay refunds or charges on*
8 *behalf of a student to a third party for license fees or any other*
9 *purposes, or to provide equipment or materials for which a*
10 *charge was collected within 180 days before the closure of the*
11 *institution.*

12 *(iii) The institution's failure to pay or reimburse loan*
13 *proceeds under a federally guaranteed student loan program as*
14 *required by law or to pay or reimburse proceeds received by the*
15 *institution prior to closure in excess of tuition and other costs.*

16 *(iv) The institution's breach or anticipatory breach of the*
17 *agreement for the course of instruction.*

18 *(v) A decline in the quality or value of the course of instruction*
19 *within the 30-day period before the closure of the institution or;*
20 *if the decline began before that period, the period of decline*
21 *determined by the board.*

22 *(vi) The commission of a fraud by the institution during the*
23 *solicitation or enrollment of, or during the program participation*
24 *of, the student.*

25 *(B) For the purposes of this section, "closure" includes*
26 *closure of a branch or satellite campus, the termination of either*
27 *the correspondence or residence portion of a home study or*
28 *correspondence course, and the termination of a course of*
29 *instruction for some or all of the students enrolled in the course*
30 *before the time these students were originally scheduled to*
31 *complete it, or before a student who has been continuously*
32 *enrolled in a course of instruction has been permitted to*
33 *complete all the educational services and classes that comprise*
34 *the course.*

35 *(2) The student obtained a judgment against the institution for*
36 *any violation of this chapter, and the student certifies that the*
37 *judgment cannot be collected after diligent collection efforts. A*
38 *court judgment obtained under this paragraph shall be paid in*
39 *accordance with paragraph (1) of subdivision (f), unless the*
40 *judgment indicates that a lesser amount is due.*

1 (b) *Payments from the fund to any student shall be made from*
2 *the appropriate account within the fund, as determined by the*
3 *type of institution into which the student has paid his or her fees,*
4 *and shall be subject to any regulations and conditions prescribed*
5 *by the board.*

6 (c) (1) (A) *The institution shall provide to the board, at the*
7 *time of the institution's closure, the names and addresses of*
8 *persons who were students of an institution within 60 days prior*
9 *to its closure, and shall notify these students, within 30 days of*
10 *the institution's closure, of their rights under the fund and how to*
11 *apply for payment. If the institution fails to comply with this*
12 *subdivision, the board shall attempt to obtain the names and*
13 *addresses of these students and shall notify them, within 90 days*
14 *of the institution's closure, of their rights under the fund and how*
15 *to apply for payment. This notice shall include the explanation*
16 *and the claim form described in subparagraph (B).*

17 (B) *The board shall develop a form in English and Spanish*
18 *fully explaining a student's rights, which shall be used by the*
19 *institution or the board to comply with the requirements of*
20 *subparagraph (A). The form shall include, or be accompanied*
21 *by, a claim application and an explanation of how to complete*
22 *the application.*

23 (2) (A) *If an institution fails to comply with paragraph (1), the*
24 *board shall order the institution, or any person responsible for*
25 *the failure to provide notice as required by paragraph (1), to*
26 *reimburse the board for all reasonable costs and expenses*
27 *incurred in notifying students as required in paragraph (1). In*
28 *addition, the board may impose a penalty of up to five thousand*
29 *dollars (\$5,000) against the institution and any person found*
30 *responsible for the failure to provide notice. The amount of the*
31 *penalty shall be based on the degree of culpability and the ability*
32 *to pay. Any order may impose joint and several liability. Before*
33 *any order is made pursuant to this paragraph, the board shall*
34 *provide written notice to the institution and any person from*
35 *whom the board seeks recovery of the board's claim and of the*
36 *right to request a hearing within 30 days of the service of the*
37 *notice.*

38 (B) *If a hearing is not requested within 30 days of service of*
39 *the notice, the board may order payment in the amount of the*
40 *claim. If a hearing is requested, Chapter 5 (commencing with*

1 Section 11500) of Part 1 of Division 3 of Title 2 of the
2 Government Code shall apply, and the board shall have all of the
3 powers therein prescribed. Within 30 days after the effective date
4 of the issuance of an order, the board may enforce the order in
5 the same manner as if it were a money judgment pursuant to Title
6 9 (commencing with Section 680.010) of Part 2 of the Code of
7 Civil Procedure. All penalties and reimbursements paid pursuant
8 to this section shall be deposited in the Private Postsecondary
9 and Vocational Education Administration Fund established
10 pursuant to Section 94790 or any successor fund.

11 (d) (1) Students entitled to payment as provided in paragraph
12 (1) of subdivision (a) shall file with the board a verified
13 application indicating each of the following:

14 (A) The student's name, address, telephone number, and
15 social security number.

16 (B) If any portion of the tuition was paid from the proceeds of
17 a loan, the name of the lender, and any state or federal agency
18 that guaranteed or reinsured the loan.

19 (C) The amount of the paid tuition, the amount and description
20 of the student's loss, and the amount of the student's claim.

21 (D) The date the student started and ceased attending the
22 institution.

23 (E) A description of the reasons the student ceased attending
24 the institution.

25 (F) If the student ceased attending because of a breach or
26 anticipatory breach or because of the decline in the quality or
27 value of the course of instruction as described in clause (v) of
28 subparagraph (A) of paragraph (1) of subdivision (a), a
29 statement describing in detail the nature of the loss incurred. The
30 application shall be filed within one year from the date of the
31 notice, as described in paragraph (1) of subdivision (c). If no
32 notice is received by the student from the board soon after the
33 school closes, the application shall be filed within four years of
34 the institution's closure, or within two years of the student's or
35 former student's receipt of an explanation of his or her rights
36 and a claim form, whichever of those claim periods expires later.
37 The two-year claim period shall begin on the day the student or
38 former student receives from the board both an explanation
39 regarding how to file a claim and a claim application, as
40 provided in subparagraph (B) of paragraph (1) of subdivision

1 (c), or on the day the second of the two documents is received, if
2 they are received on different dates. If the claimant's primary
3 language is Spanish, the notice and explanation shall be sent in
4 Spanish.

5 (G) Nothing in this subdivision shall preclude the filing of a
6 single, unified application that aggregates the claims of similarly
7 situated students.

8 (2) (A) Students entitled to payment as provided in paragraph
9 (2) of subdivision (a) shall file with the board a verified
10 application indicating the student's name, address, telephone
11 number, and social security number, the amount of the judgment
12 obtained against the institution, a statement that the judgment
13 cannot be collected, and a description of the efforts attempted to
14 enforce the judgment. The application shall be accompanied by a
15 copy of the judgment and any other documents indicating the
16 student's efforts made to enforce the judgment.

17 (B) The application shall be filed within two years after the
18 date upon which the judgment became final.

19 (3) The board may require additional information designed to
20 facilitate payment to entitled students. The board shall waive the
21 requirement that a student provide all of the information
22 required by this subdivision if the board has the information or
23 the information is not reasonably necessary for the resolution of
24 a student's claim.

25 (4) Nothing in this subdivision shall be construed to preclude
26 the filing of a single, unified application that aggregates the
27 claims of similarly situated students.

28 (e) Within 60 days of the board's receipt of a completed
29 application for payment, the board shall pay the claim from the
30 Student Tuition Recovery Fund or deny the claim. The board, for
31 good cause, may extend the time period for up to an additional
32 90 days to investigate the accuracy of the claim.

33 (f) (1) If the board pays the claim, the amount of the payment
34 shall be (A) the greater of either (i) the total guaranteed student
35 loan debt incurred by the student in connection with attending
36 the institution, or (ii) the total of the student's tuition and the cost
37 of equipment and materials related to the course of instruction,
38 less (B) the amount of any refund, reimbursement,
39 indemnification, restitution, compensatory damages, settlement,
40 debt forgiveness, discharge, cancellation, or compromise, or any

1 other benefit received by, or on behalf of, the student before the
2 board's payment of the claim in connection with the student loan
3 debt or cost of tuition, equipment, and materials. The payment
4 also shall include the amount the institution collected and failed
5 to pay to third parties on behalf of the student for license fees or
6 any other purpose. However, if the claim is based solely on the
7 circumstances described in subparagraph (B) or (C) of
8 paragraph (1) of subdivision (a), the amount of the payment shall
9 be the amount of the loss suffered by the student. In addition to
10 the amount determined under this paragraph, the amount of the
11 payment shall include all interest and collection costs on all
12 student loan debt incurred by the student in connection with
13 attending the institution.

14 (2) The board may reduce the total amount specified in
15 paragraph (1) by the value of the benefit, if any, of the education
16 obtained by the student before the closure of the institution. If the
17 board makes any reduction pursuant to this paragraph, the
18 board shall notify the claimant in writing, at the time the claim is
19 paid, of the basis of its decision and provide a brief explanation
20 of the reasons upon which the board relied in computing the
21 amount of the reduction.

22 (3) No reduction shall be made to the amount specified in
23 paragraph (1) if (A) the student did not receive adequate
24 instruction to obtain the training, skills, or experience, or
25 employment to which the instruction was represented to lead, (B)
26 credit for the instruction obtained by the student is not generally
27 transferable to other institutions approved by the board, or (C)
28 the institution or one of its representatives fraudulently
29 misrepresented to students the likely starting salary or job
30 availability, or both, after training.

31 (4) The amount of the payment determined under this
32 subdivision is not dependent on the amount of the refund to
33 which the student would have been entitled after a voluntary
34 withdrawal.

35 (5) Upon payment of the claim, all of the student's rights
36 against the institution shall be deemed assigned to the board to
37 the extent of the amount of the payment.

38 (g) (1) The board shall negotiate with a lender, holder,
39 guarantee agency, or the United States Department of Education
40 for the full compromise or writeoff of student loan obligations to

1 *relieve students of loss and thereby reduce the amount of student*
2 *claims.*

3 *(2) The board, with the student's permission, may pay a*
4 *student's claim directly to the lender, holder, guarantee agency,*
5 *or the United States Department of Education under a federally*
6 *guaranteed student loan program only if the payment of the*
7 *claim fully satisfies all of the student's loan obligations related to*
8 *attendance at the institution for which the claim was filed.*

9 *(3) Notwithstanding subdivision (e), the board may delay the*
10 *payment of a claim pending the resolution of the board's attempt*
11 *to obtain a compromise or writeoff of the claimant's student loan*
12 *obligation. However, the board shall immediately pay the claim*
13 *if any adverse action that is not stayed is taken against the*
14 *claimant, including the commencement of a civil or*
15 *administrative action, tax offset, the enforcement of a judgment,*
16 *or the denial of any government benefit.*

17 *(4) The board shall make every reasonable effort to obtain a*
18 *loan discharge for an eligible student in lieu of reimbursing that*
19 *student in whole or in part from the fund pursuant to federal*
20 *student loan laws and regulations.*

21 *(5) Whenever the board receives from a student a completed*
22 *application for payment from the Student Tuition Recovery Fund,*
23 *the board shall, as soon as is practicable, cause to be delivered*
24 *to that student a written notice specifying, in plain English, the*
25 *rights of a student under this section.*

26 *(h) (1) If the board denies the claim, or reduces the amount of*
27 *the claim pursuant to paragraph (2) of subdivision (f), the board*
28 *shall notify the student of the denial or reduction and of the*
29 *student's right to request a hearing within 60 days or any longer*
30 *period permitted by the board. If a hearing is not requested*
31 *within 60 days or any additional period reasonably requested by*
32 *the student, the board's decision shall be final. If a hearing is*
33 *requested, Chapter 5 (commencing with Section 11500) of Part 1*
34 *of Division 3 of Title 2 of the Government Code shall apply.*

35 *(2) It is the intent of the Legislature that, when a student is*
36 *enrolled in an institution that closes prior to the completion of*
37 *the student's program, the student shall have the option for a*
38 *teach-out at another institution approved by the board. The*
39 *board shall seek to promote teach-out opportunities wherever*
40 *possible and shall inform the student of his or her rights,*

1 *including payment from the fund, transfer opportunities, and*
2 *available teach-out opportunities, if any.*

3 *(i) This section applies to all claims filed or pending under*
4 *former Chapter 7 (commencing with Section 94700) after*
5 *January 1, 1990.*

6 *(j) Once the board has determined that a student claim is*
7 *eligible for payment under this section and intends to use the*
8 *Student Tuition Recovery Fund, in whole or in part, to satisfy the*
9 *eligible claim, the board shall document its negotiations with the*
10 *relevant lender, holder or guarantee agency, the United States*
11 *Department of Education, or the applicable state agency. The*
12 *board shall prepare a written summary of the parties and results*
13 *of the negotiations, including the amounts offered and accepted,*
14 *the discounts requested and granted, and any other information*
15 *that is available to any party that files a request for this*
16 *information with the board.*

17 94945. *(a) The board shall assess each institution, including*
18 *a non-WASC regionally accredited institution, as defined in*
19 *Section 94740.5, except for an institution that receives all of its*
20 *students' total charges, as defined in subdivision (k) of Section*
21 *94852, from third-party payers for the purpose of compliance*
22 *with the provisions of this chapter that are related to the Student*
23 *Tuition Recovery Fund. A third-party payer, for the purposes of*
24 *this section, means an employer, government program, or other*
25 *payer that pays a student's total charges directly to the*
26 *institution when no separate agreement for the repayment of that*
27 *payment exists between the third-party payer and the student. A*
28 *student who receives third-party payer benefits for his or her*
29 *institutional charges is not eligible for benefits from the Student*
30 *Tuition Recovery Fund.*

31 *(1) (A) The amount assessed each institution shall be*
32 *calculated only for those students who are California residents*
33 *and who are eligible to be reimbursed from the fund. It shall be*
34 *based on the actual amount charged each of these students for*
35 *total tuition cost, regardless of the portion that is prepaid, and*
36 *shall be assessed as tuition is paid or loans are funded on behalf*
37 *of the student, based upon academic term. The amount of the*
38 *assessment on an institution shall be determined in accordance*
39 *with paragraphs (2) and (3).*

1 (B) Each institution shall collect the amount assessed by the
2 board in the form of a Student Tuition Recovery Fund fee from its
3 new students, and remit these fees to the board during the
4 quarter immediately following the quarter in which the fees were
5 collected from the students, or from loans funded on behalf of the
6 students, except that an institution may waive collection of the
7 Student Tuition Recovery Fund fee and assume the fee as a debt
8 of the institution. The student's subsequent disenrollment at the
9 institution shall not relieve the institution of the obligation to pay
10 the fee to the board, nor be the basis for refund of the fee to the
11 student. An institution may not charge a fee of any kind for the
12 collection of the Student Tuition Recovery Fund fee. An
13 institution may refuse to enroll a student who has not paid, or
14 made provisions to pay, the appropriate Student Tuition
15 Recovery Fund fee.

16 (C) For the purposes of this section, a "new student" means a
17 student who signs his or her enrollment agreement on or after
18 January 1, 2002. Those students who sign their enrollment
19 agreement prior to January 1, 2002, are not "new students" for
20 purposes of this section, and shall be assessed the Student
21 Tuition Recovery Fund fee in effect prior to January 1, 2002,
22 except that an institution may waive collection of the Student
23 Tuition Recovery Fund fee in effect prior to January 1, 2002.
24 Institutions electing to waive collection of the Student Tuition
25 Recovery Fund fee shall disclose this fact to the student in the
26 enrollment agreement, along with the amount of the fee paid on
27 the student's behalf to the board.

28 (2) The amount collected from a new student by an institution
29 shall be calculated on the basis of the course tuition paid over
30 the current calendar year, based upon the assessment rate in
31 effect when the student enrolled at the institution, without regard
32 to the length of time the student's program of instruction lasts.
33 For purposes of annualized payment, a new student enrolled in a
34 course of instruction that is longer than one calendar year in
35 duration shall pay fees for the Student Tuition Recovery Fund
36 based on the amount of tuition collected during the current
37 calendar year.

38 (3) The assessment made pursuant to this section shall be
39 made in accordance with both of the following:

1 (A) Each new student shall pay a Student Tuition Recovery
2 Fund assessment for the period of January 1, 2002, to December
3 31, 2002, inclusive, at the rate of three dollars (\$3) per thousand
4 dollars of tuition paid, rounded to the nearest thousand dollars.

5 (B) Commencing January 1, 2003, Student Tuition Recovery
6 Fund fees shall be collected from new students at the rate of two
7 dollars and fifty cents (\$2.50) per thousand dollars of tuition
8 charged, rounded to the nearest thousand dollars. For new
9 students signing enrollment agreements between January 1,
10 2002, and December 31, 2002, inclusive, the assessment rate of
11 three dollars (\$3) per thousand dollars of tuition paid, rounded
12 to the nearest thousand dollars, as provided in subparagraph (A)
13 of this paragraph, shall remain the assessment rate for the
14 duration of the student's enrollment agreement.

15 (4) The board may levy additional reasonable special
16 assessments on an institution under this section only if these
17 assessments are required to ensure that sufficient funds are
18 available to satisfy the anticipated costs of paying student claims
19 pursuant to Section 94944.

20 (5) (A) The board may not levy a special assessment unless
21 the balance in any account in the Student Tuition Recovery Fund
22 falls below two hundred fifty thousand dollars (\$250,000), as
23 certified by the board.

24 (B) A special assessment is a surcharge, collected by each
25 institution from newly enrolled students, of up to 100 percent of
26 that institution's regular assessment for four consecutive
27 quarters. The affected student shall pay the surcharge
28 simultaneously with his or her regular quarterly payment to the
29 Student Tuition Recovery Fund.

30 (C) The board shall provide at least 90 days' notice of an
31 impending special assessment to each affected institution. This
32 notice shall also be posted on the board's Internet Web site.

33 (D) The board may apply any special assessment payments
34 that it receives from an institution as a credit toward that
35 institution's current or future obligations to the Student Tuition
36 Recovery Fund.

37 (6) The assessments shall be paid into the Student Tuition
38 Recovery Fund and credited to the appropriate account in the
39 fund, and the deposits shall be allocated, except as otherwise
40 provided for in this chapter, solely for the payment of valid

1 *claims to students. Unless additional reasonable assessments are*
2 *required, no assessments for the degree-granting postsecondary*
3 *educational institution account shall be levied during any fiscal*
4 *year if, as of June 30 of the prior fiscal year, the balance in that*
5 *account of the fund exceeds one million five hundred thousand*
6 *dollars (\$1,500,000). Unless additional reasonable assessments*
7 *are required, no assessments for the vocational educational*
8 *institution account shall be levied during any fiscal year if, as of*
9 *June 30 of the prior fiscal year, the balance in that account*
10 *exceeds four million five hundred thousand dollars (\$4,500,000).*
11 *However, regardless of the balance in the fund, assessments shall*
12 *be made on any newly approved institution. Notwithstanding*
13 *Section 13340 of the Government Code, the moneys so deposited*
14 *in the fund are continuously appropriated to the board for the*
15 *purpose of paying claims to students pursuant to Section 94944.*

16 *(b) The board may deduct from the fund the reasonable costs*
17 *of administration of the tuition recovery program authorized by*
18 *Section 94944 and this section. The maximum amount of*
19 *administrative costs that may be deducted from the fund, in a*
20 *fiscal year, shall not exceed one hundred thousand dollars*
21 *(\$100,000) from the degree-granting postsecondary educational*
22 *institution account and three hundred thousand dollars*
23 *(\$300,000) from the vocational educational institution account,*
24 *plus the interest earned on money in the fund that is credited to*
25 *the fund. Prior to the board's expenditure of any amount in*
26 *excess of one hundred thousand dollars (\$100,000) from the fund*
27 *for administration of the tuition recovery program, the board*
28 *shall develop a plan itemizing that expenditure. The plan shall be*
29 *subject to the approval of the Department of Finance.*
30 *Institutions, including any non-WASC regionally accredited*
31 *institution, as defined in Section 94740.5, except for schools of*
32 *cosmetology licensed pursuant to Article 8 (commencing with*
33 *Section 7362) of Chapter 10 of Division 3 of the Business and*
34 *Professions Code and institutions that offer vocational or job*
35 *training programs, that meet the student tuition indemnification*
36 *requirements of a California state agency, that secure a policy of*
37 *surety or insurance from an admitted insurer protecting their*
38 *students against loss of paid tuition, or that demonstrate to the*
39 *board that an acceptable alternative method of protecting their*

1 *students against loss of prepaid tuition has been established,*
2 *shall be exempted from this section.*

3 *(c) Reasonable costs in addition to those permitted under*
4 *subdivision (b) may be deducted from the fund for any of the*
5 *following purposes:*

6 *(1) To make and maintain copies of student records from*
7 *institutions that close.*

8 *(2) To reimburse the board or a third party serving as the*
9 *custodian of records.*

10 *(d) In the event of a closure by any approved institution under*
11 *this chapter, any assessments that have been made against those*
12 *institutions, but have not been paid into the fund, shall be*
13 *recovered. Any payments from the fund made to students on*
14 *behalf of any institution shall be recovered from that institution.*

15 *(e) In addition to civil remedies, the board may order an*
16 *institution to pay previously unpaid assessments or to reimburse*
17 *the board for any payments made from the fund in connection*
18 *with the institution. Before any order is made pursuant to this*
19 *section, the board shall provide written notice to the institution*
20 *and notice of the institution's right to request a hearing within 30*
21 *days of the service of the notice. If a hearing is not requested*
22 *within 30 days of the service of the notice, the board may order*
23 *payment. If a hearing is requested, Chapter 5 (commencing with*
24 *Section 11500) of Part 1 of Division 3 of Title 2 of the*
25 *Government Code shall apply, and the board shall have all*
26 *powers prescribed in that chapter. Within 30 days after the*
27 *effective date of the issuance of the order, the board may enforce*
28 *the order in the same manner as if it were a money judgment*
29 *pursuant to Title 9 (commencing with Section 680.010) of Part 2*
30 *of the Code of Civil Procedure.*

31 *(f) In addition to any other action that the board may take*
32 *under this chapter, the board may suspend or revoke an*
33 *institution's approval to operate because of the institution's*
34 *failure to pay assessments when due or failure to pay*
35 *reimbursement for any payments made from the fund within 30*
36 *days of the board's demand for payment.*

37 *(g) The moneys deposited in the fund shall be exempt from*
38 *execution and shall not be the subject of litigation or liability on*
39 *the part of creditors of those institutions or students.*

1 94947. *Students enrolling in institutions that come under*
2 *Sections 94944 and 94945, shall disclose in writing, if*
3 *applicable, the source of any and all guaranteed or insured loans*
4 *granted for the purposes of paying tuition to that institution. In*
5 *the event of a closure of any institution, the board shall provide*
6 *any lending institution that is the source of any guaranteed or*
7 *insured student loan with the names of students maintaining*
8 *loans with that lending institution.*

9 94948. (a) (1) *The governing board or other governing*
10 *authority of any private postsecondary or vocational educational*
11 *institution shall adopt rules providing for the withholding of*
12 *institutional services from students or former students who have*
13 *been notified, in writing, at the student's or former student's last*
14 *known address, that he or she is in default on a loan or loans*
15 *under either of the following loan programs:*

16 (A) *The Stafford Student Loan program.*

17 (B) *The Supplemental Loans for Students program.*

18 (C) *Any program directly or indirectly financed by the*
19 *California Educational Facilities Authority.*

20 (2) *"Default," as used in this section, with respect to a loan*
21 *under the Stafford Student Loan program or Supplemental Loans*
22 *for Students program means the failure of a borrower to make an*
23 *installment payment when due, or to meet other terms of the*
24 *promissory note under circumstances where the guarantee*
25 *agency finds it reasonable to conclude that the borrower no*
26 *longer intends to honor the obligation to repay, provided that*
27 *this failure persists for 180 days for a loan repayable in monthly*
28 *installments, or 240 days for a loan repayable in less frequent*
29 *installments. "Default," as used in this section, with respect to a*
30 *program directly or indirectly financed by the California*
31 *Educational Facilities Authority, means the failure of a borrower*
32 *to make an installment payment when due, or to meet other terms*
33 *of the loan, within that period and under the circumstances*
34 *determined by the California Educational Facilities Authority*
35 *with respect to that program.*

36 (b) *The rules adopted pursuant to subdivision (a) shall that the*
37 *services withheld may be provided during a period when the*
38 *facts are in dispute and when the student or former student*
39 *demonstrates to either the governing board or other appropriate*
40 *governing authority of the institution, or the Student Aid*

1 *Commission and the appropriate entity or its designee, that*
2 *reasonable progress has been made to repay the loan or that*
3 *there exists a reasonable justification for the delay as determined*
4 *by the institution. The rules shall specify the services to be*
5 *withheld from the student and may include, but are not limited to,*
6 *the following:*

7 *(1) The provision of grades.*

8 *(2) The provision of transcripts.*

9 *(3) The provision of diplomas. The rules shall not include the*
10 *withholding of registration privileges.*

11 *(c) When it has been determined that an individual is in*
12 *default on a loan or loans under either of the loan programs*
13 *specified in subdivision (a), the Student Aid Commission shall*
14 *give notice of the default to all institutions through which that*
15 *individual acquired the loan or loans.*

16 *(d) Guarantors, or those who act as their agents or act under*
17 *their control, who provide information to institutions pursuant to*
18 *this section, shall defend, indemnify, and hold harmless the*
19 *governing board or other governing authority of the institutions*
20 *from action resulting from compliance with this section when the*
21 *action arises as a result of incorrect, misleading, or untimely*
22 *information provided to the institution by the guarantors, their*
23 *agents, or those acting under the control of the guarantors.*
24

25 *Article 13. Administrative and Judicial Procedures*
26

27 *94950. (a) The procedures set forth in Section 94965 or,*
28 *alternatively, in Section 94975, govern the following types of*
29 *administrative actions:*

30 *(1) Denial of an application for an approval or renewal of an*
31 *approval.*

32 *(2) Suspension or revocation of an existing approval.*

33 *(3) Appeals of conditional approvals.*

34 *(b) In lieu of the procedures set forth in Section 94965 or*
35 *94975, an institution may voluntarily elect to utilize the*
36 *procedures set forth in Section 94980 if it appeals a conditional*
37 *approval by the board.*

38 *(c) The procedures set forth in Section 94970 govern*
39 *emergency suspensions of an institution's approval to operate*
40 *initiated by the board.*

1 (d) Sections 94952 and 94955 authorize the board and the
2 Attorney General to seek various forms of judicial relief in order
3 to enforce this chapter.

4 (e) Section 94960 governs actions based on student
5 complaints.

6 (f) Section 94985 authorizes civil remedies for individual
7 students in addition to those available under other provisions of
8 law.

9 (g) Procedures established pursuant to regulations adopted by
10 the board shall govern the following types of administrative
11 appeals:

12 (1) Probationary actions.

13 (2) Decisions by the board denying an institution's claim for
14 an exemption or exclusion from this chapter or any provision
15 thereof.

16 94952. (a) The Attorney General, or any district attorney, or
17 city attorney, may make investigations as may be necessary to
18 carry out this chapter, including, but not necessarily limited to,
19 investigations of complaints. The board may jointly bring actions
20 as necessary to enforce this chapter, including, but not
21 necessarily limited to, civil actions for injunctive relief. In
22 actions brought pursuant to this subdivision, the board shall be
23 represented by the Attorney General.

24 (b) The Attorney General shall represent the board in the
25 following administrative proceedings arising under this chapter:

26 (1) Suspension or revocation of an institution's approval.

27 (2) Denial of an institution's application for approval.

28 (3) An appeal of a conditional approval to operate issued
29 following a review of an institution's application for approval.

30 (c) Nothing in this section or this chapter shall preclude the
31 Attorney General, or any district attorney or city attorney, from
32 any of the following:

33 (1) Bringing any action on behalf of the people as he or she is
34 empowered by law to bring, including, but not necessarily limited
35 to, actions based upon alleged violations of Chapter 5
36 (commencing with Section 17200) of Part 2, and Chapter 1
37 (commencing with Section 17500) of Part 3, of Division 7 of the
38 Business and Professions Code.

39 (2) Conducting investigations necessary to determine whether
40 there have been violations of law specified in paragraph (1).

1 (3) Conducting any investigations that he or she is authorized
2 to conduct, including, but not necessarily limited to,
3 investigations authorized under Section 11180 of the Government
4 Code.

5 (4) In the case of the Attorney General, delegating his or her
6 representation authority under subdivision (b) to staff attorneys
7 of the board.

8 (5) Entering into an agreement or understanding with the
9 board with respect to representation in any judicial or
10 administrative proceeding not expressly enumerated herein.

11 94955. (a) The board may bring an action for equitable
12 relief for any violation of this chapter. The equitable relief may
13 include restitution, a temporary restraining order, the
14 appointment of a receiver, and a preliminary or permanent
15 injunction. The action may be brought in the county in which the
16 defendant resides or in which any violation has occurred or may
17 occur.

18 (b) The remedies provided in this section supplement, but do
19 not supplant, the remedies and penalties under other provisions
20 of law.

21 (c) In actions brought pursuant to this section, the board shall
22 be represented by the Attorney General.

23 94957. (a) In addition to or in lieu of any other remedy or
24 penalty, the board may issue a citation to an institution for
25 committing any violation of this chapter or regulation adopted
26 under this chapter.

27 (b) The citation may contain an order of abatement or the
28 assessment of an administrative fine. The administrative fine may
29 not exceed two thousand five hundred dollars (\$2,500) for each
30 violation. The board shall base its assessment of the
31 administrative fine on the nature and seriousness of the violation,
32 the persistence of the violation, the good faith of the institution,
33 the history of previous violations, and the purposes of this
34 chapter.

35 (c) The citation shall be in writing and shall describe the
36 nature of the violation and the specific provision of law
37 determined to have been violated. The citation shall inform the
38 institution of its right to request a hearing in writing within 15
39 days of the date that the citation was issued. If a hearing is not
40 requested, payment of the administrative fine shall not constitute

1 *an admission of the violation charged. If a hearing is requested,*
2 *the board shall provide a hearing as described in Section 94965,*
3 *94975, or 94980. Payment of the administrative fine is due 15*
4 *days after the citation was issued if a hearing is not requested, or*
5 *when a final order is entered if a hearing is requested. The board*
6 *may enforce the administrative fine as if it were a money*
7 *judgment pursuant to Title 9 (commencing with Section 680.10)*
8 *of Part 2 of the Code of Civil Procedure.*

9 *(d) All administrative fines shall be deposited in the Private*
10 *Postsecondary and Vocational Education Administration Fund.*

11 *94960. (a) Any person claiming damage or loss as a result of*
12 *any act or practice by a postsecondary or vocational educational*
13 *institution or its agent, or both, that is a violation of this chapter*
14 *or of the regulations adopted pursuant to this chapter, may file*
15 *with the board a verified complaint against that institution or its*
16 *agent, or both. The complaint shall set forth the alleged*
17 *violation, and shall contain any other information as may be*
18 *required by the board.*

19 *(b) (1) Pursuant to regulations that specify its procedures*
20 *regarding complaint handling and disclosure, the board shall*
21 *investigate any complaint, and document its findings and its*
22 *determination of the appropriate course of action and disposition*
23 *of the complaint.*

24 *(2) The board shall adopt regulations that specify its*
25 *procedures for complaint handling and complaint disclosure.*
26 *The board shall make every reasonable attempt to ensure that the*
27 *first public hearing on its proposed regulations is convened prior*
28 *to June 30, 2002. The requirements of this subdivision shall not*
29 *preclude the board from fulfilling its complaint handling*
30 *responsibilities pending adoption of the regulations.*

31 *(3) The regulations adopted pursuant to paragraph (2) shall*
32 *include, but not necessarily be limited to, both of the following:*

33 *(A) A procedure for handling the original student complaints*
34 *by mail that affords the institution that is the subject of the*
35 *complaint an opportunity to respond.*

36 *(B) Additional options, including teleconferencing and an*
37 *administrative law hearing and a complaint resolution hearing*
38 *conducted by the board program administrator or his or her*
39 *designee. Participation in this hearing shall not prevent any*

1 party to the complaint from exercising any other means of
2 redress available under the law.

3 (4) Nothing in this section shall be construed to prevent a
4 complainant, institution, or the board from using additional
5 appeals that are available under state law.

6 (c) If, upon all the evidence at a hearing, the board finds that
7 an institution or its agent, or both, have engaged in, or are
8 engaging in, any act or practice that violates this chapter or the
9 regulations adopted pursuant to this chapter, the board shall
10 report that evidence to the Attorney General. The board, based
11 on its own investigation or the evidence adduced at a hearing, or
12 both, also may commence an action to revoke an institution's
13 approval to operate or an agent's permit.

14 (d) Complaints received by the board pertaining to institutions
15 accredited by the Western Association of Schools and Colleges
16 shall be forwarded to the association. Actions by the board
17 relating to complaints against these institutions shall be limited
18 to the transmittal of this information.

19 (e) A person entitled to bring an action for the recovery of
20 damages or other relief shall not be required to file a complaint
21 pursuant to this section, or to pursue or exhaust any
22 administrative process or remedy before bringing the action.

23 94960.5. The board shall include in its annual report to the
24 Legislature made pursuant to Section 94995, a statistical
25 summary of complaints filed pursuant to Section 94960, that
26 includes, but is not necessarily limited to, all of the following:

27 (a) The number of complaints filed.

28 (b) The nature of the complaint, by appropriate categories.

29 (c) The disposition of the complaints.

30 (d) The actions taken by the board, under subdivision (c) of
31 Section 94960, to enforce a prevailing complaint.

32 94965. (a) Proceedings in connection with the denial of an
33 application to operate, the grant of a conditional approval to
34 operate, or the revocation of an approval to operate shall be
35 conducted in accordance with Chapter 5 (commencing with
36 Section 11500) of Part 1 of Division 3 of Title 2 of the
37 Government Code, and the board shall have all of the powers
38 granted in that chapter. Any action by the board to place an
39 institution on probation shall be subject to appeal, and the board
40 shall establish procedures that provide the institution with

1 *adequate notice and an opportunity to be heard and to present*
2 *evidence as to why the action recommended by staff or by a*
3 *visiting committee shall not be taken.*

4 *(b) Upon taking any action to suspend or revoke an*
5 *institution's approval to operate, or to deny an application for*
6 *renewal of an approval to operate, the board shall provide*
7 *written notice to the Student Aid Commission, the United States*
8 *Department of Education, and to any appropriate accrediting*
9 *association.*

10 94970. *(a) If an institution has violated this chapter and*
11 *determines that immediate action is necessary to protect*
12 *students, prevent misrepresentations to the public, or prevent the*
13 *loss of public funds, tuition, or other money paid by students, the*
14 *board may institute an emergency action to suspend the approval*
15 *of an institution to operate, or the approval to operate a branch*
16 *or satellite campus, for not more than 30 days unless the board*
17 *initiates a proceeding to suspend or revoke the approval to*
18 *operate within that period.*

19 *(b) (1) The board shall provide notice of the emergency*
20 *action to the institution by certified mail, if the effective date of*
21 *the emergency action is 10 or more working days after mailing,*
22 *or personal service, if the effective date of the emergency action*
23 *is five or more days after service.*

24 *(2) The notice shall specify all of the following:*

25 *(A) The violations upon which the emergency action is based.*

26 *(B) The nature and grounds of the emergency action,*
27 *including whether the action applies to the continuation of*
28 *instruction to enrolled students or to the enrollment of new*
29 *students.*

30 *(C) The effective date of the action, which shall not be less*
31 *than five days after the notice is provided.*

32 *(D) The institution's right to show cause that the emergency*
33 *action is unwarranted by submitting to the board, at least two*
34 *days before the effective date of the emergency action,*
35 *declarations, documentary evidence, and written arguments*
36 *demonstrating that the violations did not occur or that immediate*
37 *action is not required.*

38 *(E) The right of the institution to request, in writing, within 30*
39 *days of the service of the notice, a hearing.*

1 (c) The board may (1) continue the effective date of an
2 emergency action or (2) terminate the emergency action at any
3 time if the board concludes that the institution has shown cause
4 that the emergency action is unwarranted or that the grounds for
5 instituting the emergency action no longer remain. The board
6 shall provide written notice of a continuance or termination of an
7 emergency action to the institution.

8 (d) (1) If the institution does not take the opportunity to show
9 cause why the emergency action is unwarranted, the emergency
10 action shall become effective on the date specified in the notice
11 or notice of continuance.

12 (2) If the institution takes the opportunity to show cause and
13 the board decides, after a consideration of the declarations,
14 documentary evidence and written argument submitted by the
15 institution, that the emergency action should become effective,
16 the emergency action shall be effective on the date specified in
17 the notice or notice of continuance. The board shall notify the
18 institution of the decision at least one day before the effective
19 date, and the institution may thereafter seek judicial relief upon
20 notice to the board and the Attorney General.

21 (e) (1) If a hearing is requested within the 30-day period
22 specified in subdivision (b), the board shall set a date for the
23 hearing within 20 days after receipt of the request.

24 (2) If the institution does not request a hearing within the
25 30-day period specified in subdivision (b) or if the board
26 concludes after a hearing requested by the institution that
27 grounds exist for the suspension or revocation of the institution's
28 approval to operate or approval to operate a branch or satellite
29 campus, the board may extend the suspension or revoke the
30 institution's approval to operate or approval to operate a branch
31 or satellite campus, order probation and a penalty, order the
32 posting of a bond, or condition the institution's approval to
33 operate or approval to operate a branch or satellite campus as
34 the board deems appropriate.

35 (f) During the pendency of an emergency action, the board
36 may investigate the institution's compliance with this chapter,
37 including an onsite inspection, and may institute a proceeding
38 pursuant to Section 94878, if applicable, or Section 94965 or
39 94975 to suspend or revoke an institution's approval to operate
40 or approval to operate a branch or satellite campus, order a

1 *bond, or order probation and a penalty, based on any violation*
2 *of this chapter.*

3 *(g) This section supplements, but does not supplant, the*
4 *authority of the board to seek judicial relief, including a*
5 *temporary restraining order and injunction, to redress any*
6 *violation of this chapter.*

7 *94975. (a) This section establishes the procedure for notice*
8 *and hearing required under this chapter and, except as provided*
9 *in Section 94970, may be used in lieu of other notice or hearing*
10 *requirements provided in this chapter.*

11 *(b) If notice of administrative action is required by this*
12 *chapter, the board shall serve notice stating the following:*

13 *(1) The action, including the penalties and administrative*
14 *sanctions sought.*

15 *(2) The grounds for the action with sufficient particularity to*
16 *give notice of the transactions, occurrences, violations, or other*
17 *matters on which the action is based.*

18 *(3) The right to a hearing and the time period within which the*
19 *party subject to the notice may request a hearing in writing. The*
20 *time period shall not be less than 15 days after service of the*
21 *notice unless a longer period is provided by statute.*

22 *(4) The right to be present at the hearing, to be represented by*
23 *counsel, to cross-examine witnesses, and to present evidence.*

24 *(5) That, if the party subject to the notice does not request a*
25 *hearing in writing within the time period expressed in the notice,*
26 *he or she will waive or forfeit his or her right to an*
27 *administrative hearing and the action will become final.*

28 *(c) If a party subject to a notice provided pursuant to*
29 *subdivision (b) requests a hearing in writing within the time*
30 *period specified in paragraph (3) of subdivision (b), then within*
31 *30 days of receiving this request, the board shall schedule a*
32 *hearing. The hearing shall be held in a location determined*
33 *pursuant to Section 11508 of the Government Code. The board*
34 *shall serve reasonable notice of the time and place for the*
35 *hearing at least 10 days before the hearing. The board may*
36 *continue the date of the hearing upon a showing of good cause.*

37 *(d) (1) Any party, including the board, may submit a written*
38 *request to any other party before the hearing to obtain the names*
39 *and addresses of any person who has personal knowledge, or*
40 *who the party receiving the request claims to have personal*

1 knowledge, of any of the transactions, occurrences, violations, or
2 other matters that are the basis of the administrative action. In
3 addition, the requesting party shall have the right to inspect and
4 copy any written statement made by that person and any writing,
5 as defined by Section 250 of the Evidence Code, or thing that is
6 in the custody, or under the control, of the party receiving the
7 request and that is relevant and not privileged. This subdivision
8 shall constitute the exclusive method for prehearing discovery.
9 However, nothing in this paragraph shall affect the board's
10 authority, at any time, to investigate, inspect, monitor, or obtain
11 and copy information under any provision of this chapter.

12 (2) The written request described in paragraph (1) shall be
13 made before the hearing and within 30 days of the service of the
14 notice described in subdivision (b). Each recipient of a request
15 shall comply with the request within 15 days of its service by
16 providing the names and addresses requested and by producing
17 at a reasonable time at the board's office, or other mutually
18 agreed reasonable place, the requested writings and things. The
19 board may extend the time for response upon a showing of good
20 cause.

21 (3) Except as provided in this paragraph, no party may
22 introduce the testimony or statement of any person or any writing
23 or thing into evidence at the hearing if that party failed to
24 provide the name and address of the person or to produce the
25 writing or thing for inspection and copying as provided by this
26 subdivision. A party may introduce the testimony, statement,
27 writing, or thing that was not identified or produced as required
28 herein only if there is no objection or if the party establishes that
29 the person, writing, or thing was unknown at the time when the
30 response was made to the written request, the party could not
31 have informed other parties within a reasonable time after
32 learning of the existence of the person, writing, or thing, and no
33 party would be prejudiced by the introduction of the evidence.

34 (e) Before the hearing has commenced, the board shall issue
35 subpoenas at the written request of any party for the attendance
36 of witnesses or the production of documents or other things in the
37 custody or under the control of the person subject to the
38 subpoena. Subpoenas issued pursuant to this section are subject
39 to Section 11510 of the Government Code.

1 (f) (1) *The board shall designate an impartial hearing officer*
2 *to conduct the hearing. The hearing officer may administer oaths*
3 *and affirmations, regulate the course of the hearing, question*
4 *witnesses, and otherwise investigate the issues, take official*
5 *notice according to the procedure provided in Division 4*
6 *(commencing with Section 450) of the Evidence Code of any*
7 *technical or educational matter in the board's special field of*
8 *expertise and of any matter that may be judicially noticed, set the*
9 *time and place for continued hearings, fix the time for the filing*
10 *of briefs and other documents, direct any party to appear and*
11 *confer to consider the simplification of issues by consent, and*
12 *prepare a statement of decision.*

13 (2) *Neither a hearing officer nor any person who has a direct*
14 *or indirect interest in the outcome of the hearing shall*
15 *communicate directly or indirectly with each other regarding any*
16 *issue involved in the hearing while the proceeding is pending*
17 *without notice and opportunity for all parties to participate in the*
18 *communication. A hearing officer who receives any ex parte*
19 *communication shall immediately disclose the communication to*
20 *the board and all other parties. The board may disqualify the*
21 *hearing officer if necessary to eliminate the effect of the ex parte*
22 *communication. If the board finds that any party willfully*
23 *violated, or caused the violation of, this paragraph, the board*
24 *shall enter that party's default and impose the administrative*
25 *sanction set forth in the notice provided pursuant to subdivision*
26 *(b).*

27 (g) (1) *Each party at the hearing shall be afforded an*
28 *opportunity to present evidence, respond to evidence presented*
29 *by other parties, cross-examine, and present written argument*
30 *or, if permitted by the hearing officer, oral argument on the*
31 *issues involved in the hearing. The board may call any party as a*
32 *witness who may be examined as if under cross-examination.*

33 (2) *Each party may appear through its representative or*
34 *through legal counsel.*

35 (3) *The technical rules relating to evidence and witnesses*
36 *shall not apply. However, only relevant evidence is admissible.*

37 (4) *Oral evidence shall be taken only upon oath or*
38 *affirmation. The hearing shall be conducted in the English*
39 *language. The proponent of any testimony to be offered by a*
40 *witness who is not proficient in English shall provide, at the*

1 *proponent's cost, an interpreter proficient in English and the*
2 *language in which the witness will testify.*

3 *(5) The hearing shall be recorded by tape recording or other*
4 *phonographic means unless all parties agree to another method*
5 *of recording the proceedings.*

6 *(6) (A) At any time 10 or more days before the hearing, any*
7 *party may serve on the other parties a copy of any declaration*
8 *that the party proposes to introduce in evidence.*

9 *(B) The declaration shall be accompanied by a notice*
10 *indicating the date of service of the notice and stating that the*
11 *declarations will be offered into evidence, the declarants will not*
12 *be called as witnesses, and there will be no right of*
13 *cross-examination unless the party receiving the notice requests*
14 *the right to cross-examine, in writing, within seven days of the*
15 *service of the declarations and notice.*

16 *(C) If no request for cross-examination is served within seven*
17 *days of the service of the declarations and notice described in*
18 *subparagraph (B), the right to cross-examination is deemed*
19 *waived and the declaration shall have the same effect as if the*
20 *declarant testified orally. Notwithstanding this paragraph, a*
21 *declaration may be admitted as hearsay evidence without*
22 *cross-examination.*

23 *(7) Disposition of any issues involved in the hearing may be*
24 *made by stipulation or settlement.*

25 *(8) If a party fails to appear at a hearing, that party's default*
26 *shall be taken and the party shall be deemed to have waived the*
27 *hearing and agreed to the administrative action and the grounds*
28 *for that action described in the notice given pursuant to*
29 *subdivision (b). The board shall serve the party with an order of*
30 *default including the administrative action ordered. The order*
31 *shall be effective upon service or at any other time designated by*
32 *the board. The board may relieve a party from an order of*
33 *default if the party applies for relief within 15 days after the*
34 *service of an order of default and establishes good cause for*
35 *relief. An application for relief from default shall not stay the*
36 *effective date of the order unless expressly provided by the*
37 *board.*

38 *(h) (1) At any time before the matter is submitted for decision,*
39 *the board may amend the notice provided pursuant to subdivision*
40 *(b) to set forth any further grounds for the originally noticed*

1 administrative action or any additional administrative action and
2 the grounds therefor. The statement of the further grounds for the
3 originally noticed administrative action, or of the grounds for
4 any additional administrative action, shall be made with
5 sufficient particularity to give notice of the transactions,
6 occurrences, violations, or other matters on which the action or
7 additional action is based. The amended notice shall be served
8 on all parties. All parties affected by the amended notice shall be
9 given reasonable opportunity to respond to the amended notice
10 as provided in this section.

11 (2) The board may amend the notice after the case is
12 submitted for decision. The board shall serve each party with
13 notice of the intended amendment, and shall provide the party
14 with an opportunity to show that the party will be prejudiced by
15 the amendment unless the case is reopened to permit the party to
16 introduce additional evidence. If prejudice is shown, the board
17 shall reopen the case to permit the introduction of additional
18 evidence.

19 (i) (1) Within 30 days after the conclusion of the hearing or at
20 another time established by the board, the hearing officer shall
21 submit a written statement of decision setting forth a
22 recommendation for a final decision and explaining the factual
23 and legal basis for the decision as to each of the grounds for the
24 administrative action set forth in the notice or amended notice.
25 The board shall serve the hearing officer's statement of decision
26 on each party and its counsel within 10 days of its submission by
27 the hearing officer.

28 (2) The board shall make the final decision which shall be
29 based exclusively on evidence introduced at the hearing. The
30 final decision shall be supported by substantial evidence in the
31 record. The board also shall issue a statement of decision
32 explaining the factual and legal basis for the final decision as to
33 each of the grounds for the administrative action set forth in the
34 notice or amended notice. The board shall issue an order based
35 on its decision which shall be effective upon service or at any
36 other time designated by the board. The executive officer of the
37 board, or his or her agent, shall serve a copy of the final decision
38 and order, within 10 days of their issuance, on each party and its
39 counsel.

1 (3) *The board shall serve a certified copy of the complete*
2 *record of the hearing, or any part thereof designated by a party,*
3 *within 30 days after receiving the party's written request and*
4 *payment of the cost of preparing the requested portions of the*
5 *record. The complete record shall include all notices and orders*
6 *issued by the board, a transcript of the hearing, the exhibits*
7 *admitted or rejected, the written evidence and any other papers*
8 *in the case, the hearing officer's statement of decision, and the*
9 *final decision and order.*

10 (j) *The board shall serve all notices and other documents that*
11 *are required to be served by this section on each party by*
12 *personal delivery, by certified mail, return receipt requested, or*
13 *by any other means designated by the board.*

14 (k) (1) *Any party aggrieved by the board's final decision and*
15 *order may seek judicial review by filing a petition for a writ of*
16 *mandate pursuant to Section 1085 of the Code of Civil Procedure*
17 *within 30 days of the issuance of the final decision and order. If*
18 *review is not sought within that period, the party's right to*
19 *review shall be deemed waived.*

20 (2) *The aggrieved party shall present the complete record of*
21 *the hearing or all portions of the record necessary for the court's*
22 *review of the board's final decision and order. The court shall*
23 *deny the petition for a writ of mandate if the record submitted by*
24 *the party is incomplete. The court shall not consider any matter*
25 *not contained in the record. The board's findings of fact and*
26 *legal conclusions supporting the final decision shall be*
27 *conclusive if supported by substantial evidence on the record*
28 *considered as a whole.*

29 (3) *The final order shall not be stayed or enjoined during*
30 *review except upon the court's grant of an order on a party's*
31 *application after due notice to the board and the Attorney*
32 *General. The order shall be granted only if the party establishes*
33 *the substantial likelihood that it will prevail on the merits and*
34 *posts a bond sufficient to protect fully the interests of the*
35 *students, the board, and the fund, from any loss.*

36 (l) *The board may adopt regulations establishing alternative*
37 *means of providing notice and an opportunity to be heard in*
38 *circumstances in which a full hearing is not required by law.*

1 (m) For the purposes of this section, “good cause” shall
2 require sufficient ground or reason for the determination to be
3 made by the board.

4 94980. (a) If the board denies an institution’s application for
5 approval, grants a conditional approval, or initiates a
6 proceeding to suspend or revoke an institution’s approval to
7 operate, the institution may request a hearing pursuant to this
8 section in lieu of the hearing procedure designated by the board
9 under Section 94965 or 94975.

10 (b) At the time the board provides notice to an institution of its
11 right to a hearing under Section 94965 or 94975 in connection
12 with the denial of an application for approval to operate, the
13 issuance of a conditional approval to operate, or a proposed
14 suspension or revocation of approval to operate, the board also
15 shall provide notice of the provisions of this section.

16 (c) Within 15 days after service of the notice described in
17 subdivision (b), the institution may request in writing a hearing
18 under this section in lieu of the hearing procedure in Section
19 94965 or 94975. The request shall acknowledge that, by electing
20 to proceed under this section, the institution is knowingly
21 waiving all rights under the hearing procedure otherwise
22 provided by the board.

23 (d) After receiving the institution’s request for a hearing under
24 this section, the board shall provide the institution or its
25 representative with copies of all the documents, testimony in
26 declaration form, and written arguments on which the board
27 relies to support its proposed administrative action.

28 (e) The institution shall have 30 days from the service of the
29 board’s written evidence and arguments to submit all the
30 documents, testimony in declaration form, and written arguments
31 on which the institution relies in opposition to the board’s
32 proposed administrative action.

33 (f) Neither the board nor the institution has any right to
34 discovery or to compel the production of documents or the
35 testimony of witnesses by subpoena.

36 (g) The board shall review all of the documents, declarations,
37 and arguments, and shall render a proposed decision in writing,
38 based solely on the written evidence and arguments that set forth
39 the proposed administrative action and the factual and legal
40 bases for it.

1 (h) The board shall serve the institution with a written
2 decision setting forth the administrative action taken and the
3 legal and factual bases for it. The decision shall become final
4 within 30 days unless another time is specified by the board.

5 (i) The board shall serve a certified copy of the complete
6 record, or any part thereof designated by an institution, within
7 30 days after receiving the institution's written request and
8 payment of the cost of preparing the requested record or portions
9 thereof. The complete record shall consist of all notices and
10 orders of the board, the documents, declarations, and written
11 argument submitted, a transcript of any oral argument, and the
12 final decision and order.

13 (j) Any party aggrieved by the board's final decision and
14 order may seek judicial review as provided in, and subject to, the
15 requirements of subdivision (k) of Section 94975.

16 (k) All documents required by this section to be served by the
17 board shall be served on the institution, its counsel, or
18 authorized representative by any means authorized for service
19 pursuant to Chapter 5 (commencing with Section 1010) of Title
20 14 of Part 2 of the Code of Civil Procedure.

21 94985. (a) Any institution that willfully violates any
22 provision of Section 94800, 94810, 94814, or 94816, Sections
23 94820 to 94826, inclusive, Section 94829, 94931.2, or 94932
24 may not enforce any contract or agreement arising from the
25 transaction in which the violation occurred, and any willful
26 violation is a ground for revoking an approval to operate in this
27 state or for denying a renewal application.

28 (b) Any person who claims that an institution is operating in
29 violation of subdivision (a) of Section 94931.2, subdivision (a) of
30 Section 94900, or Section 94915, or an institution is operating a
31 branch or satellite campus in violation of subdivision (a) of
32 Section 94848.3, may bring an action, in a court of competent
33 jurisdiction, for the recovery of actual and or statutory damages
34 as well as an equity proceeding to restrain and enjoin those
35 violations, or both.

36 (1) At least 35 days prior to the commencement of an action
37 pursuant to this subdivision, the plaintiff shall do all of the
38 following:

39 (A) Notify the institution alleged to have violated subdivision
40 (a) of Section 94831, subdivision (a) of Section 94900, Section

1 94915, or subdivision (a) of Section 94848.3, of the particular
2 alleged violations.

3 (B) Demand that the institution apply for the board's approval
4 to operate as required by subdivision (a) of Section 94931.2,
5 subdivision (a) of Section 94900, Section 94915, or subdivision
6 (a) of Section 94848.3, whichever is applicable.

7 (C) The notice shall be in writing, and shall be sent by regular
8 mail and certified or registered mail, return receipt requested, to
9 the location of the institution that is allegedly operating in
10 violation of subdivision (a) of Section 94931.2, subdivision (a) of
11 Section 94900, Section 94915, or subdivision (a) of Section
12 94848.3, whichever is applicable.

13 (D) The institution shall have 30 working days, from receipt of
14 the notice, to file an application for approval to operate with the
15 board.

16 (E) No action pursuant to this subdivision may be filed if the
17 institution, within 30 working days after receipt of the notice,
18 applies for the board's approval to operate as required by
19 subdivision (a) of Section 94931.2, subdivision (a) of Section
20 94900, Section 94915, or subdivision (a) of Section 94848.3,
21 whichever is applicable.

22 (F) If, within 35 days after receipt of the notice, the board has
23 not received an application from the institution, the board shall
24 mail the plaintiff a certification that the institution has not
25 applied or been approved to operate pursuant to subdivision (a)
26 of Section 94831, subdivision (a) of Section 94900, Section
27 94915, or subdivision (a) of Section 94848.3, whichever is
28 applicable.

29 (G) (1) The plaintiff shall also notify the board by mail and by
30 certified or registered mail, return receipt requested, that he or
31 she intends to bring an action pursuant to this section against the
32 institution. Upon receipt of this notice, the board shall
33 immediately investigate the institution's compliance with
34 subdivision (a) of Section 94931.2, subdivision (a) of Section
35 94900, Section 94915, or subdivision (a) of Section 94848.3,
36 whichever is applicable, and, if the board determines that the
37 institution has violated the applicable section, the board shall
38 immediately order the institution to cease and desist operations.
39 For each day that the institution continues to operate in violation

1 of the board's cease and desist order, the institution shall be
2 fined one thousand dollars (\$1,000).

3 (2) If the court finds that the institution has violated
4 subdivision (a) of Section 94931.2, subdivision (a) of Section
5 94900, Section 94915, or subdivision (a) of Section 94848.3, all
6 of the following shall occur:

7 (A) The court shall order the institution to cease all operations
8 and to comply with all procedures set forth in this code
9 pertaining to the closure of institutions.

10 (B) The court shall order the institution to pay all students
11 who enrolled while the school was in violation of subdivision (a)
12 of Section 94931.2, subdivision (a) of Section 94900, Section
13 94915, or subdivision (a) of Section 94848.3, a refund of all
14 tuition and fees paid to the institution and a statutory penalty of
15 one thousand dollars (\$1,000).

16 (C) The court shall order the institution to pay the prevailing
17 party's attorneys' fees and costs.

18 (D) The court shall order the institution to pay to the board all
19 fines incurred pursuant to subparagraph (E) of paragraph (1).

20 (E) Any instrument of indebtedness, enrollment agreement, or
21 contract for educational services is unenforceable pursuant to
22 Section 94838. The court shall order the institution to mail a
23 notice to all students who were enrolled while the school was in
24 violation of subdivision (a) of Section 94931.2, subdivision (a) of
25 Section 94900, Section 94915, or subdivision (a) of Section
26 94848.3, stating that instruments of indebtedness, enrollment
27 agreements, and contracts for educational services are not
28 enforceable. If the institution fails to provide adequate proof to
29 the court and to the board that it has mailed this notice within 30
30 days of the court's order, the board shall mail the notice to the
31 students and the court shall order the institution to pay the
32 board's costs of generating and mailing the notices, in no case
33 less than five thousand dollars (\$5,000).

34 (3) Any violation of subdivision (a) of Section 94931.2,
35 subdivision (a) of Section 94900, Section 94915, and subdivision
36 (a) of Section 94848.3 shall constitute an unfair business
37 practice within the meaning of Section 17200 of the Business and
38 Professions Code.

39 (4) A certification, issued by the board, that the institution has
40 not applied for approval to operate and has not been approved to

1 operate as required by subdivision (a) of Section 94931.2,
2 subdivision (a) of Section 94900, Section 94915, or subdivision
3 (a) of Section 94848.3, whichever is applicable, shall establish a
4 conclusive presumption that the institution has violated this
5 subdivision.

6 (5) All fines and other monetary amounts that an institution is
7 ordered to pay pursuant to this subdivision may be collected
8 from the institution itself and from the individuals who own the
9 institution, whether or not the institution is organized as a
10 corporation.

11 (c) Notwithstanding any provision of the contract or
12 agreement, a student may bring an action for a violation of this
13 article or for an institution's failure to perform its legal
14 obligations and, upon prevailing thereon, is entitled to the
15 recovery of damages, equitable relief, or any other relief
16 authorized by this article, and reasonable attorney's fees and
17 costs.

18 (d) If a court finds that a violation was willfully committed or
19 that the institution failed to refund all consideration as required
20 by subdivision (b) on the student's written demand, the court, in
21 addition to the relief authorized under subdivision (b), shall
22 award a civil penalty of up to two times the amount of the
23 damages sustained by the student.

24 (e) The remedies provided in this article supplement, but do
25 not supplant, the remedies provided under any other provision of
26 law.

27 (f) An action brought under this section shall be commenced
28 within three years of the discovery of the facts constituting
29 grounds for commencing the action.

30 (g) Any provision in any agreement that purports to require a
31 student to invoke any grievance dispute procedure established by
32 the institution before enforcing any right or remedy is void and
33 unenforceable.

34 (h) A student may assign his or her cause of action for a
35 violation of this article to the board, or to any state or federal
36 agency that guaranteed or reinsured a loan for the student or
37 that provided any grant or other financial aid.

38 (i) This section applies to any action pending on the effective
39 date of this section.

1 (j) *This section supplements, but does not supplant, the*
2 *authority granted the Division of Labor Standards Enforcement*
3 *under Chapter 4 (commencing with Section 79) of Division 1 of*
4 *the Labor Code to the extent that placement activities of trade*
5 *schools are subject to regulation by the division under the Labor*
6 *Code.*

7 (k) *If a student commences an action or asserts any claim in*
8 *an existing action for recovery on behalf of a class of persons, or*
9 *on behalf of the general public, under Section 17200 of the*
10 *Business and Professions Code, the student shall notify the board*
11 *of the existence of the lawsuit, the court in which the action is*
12 *pending, the case number of the action, and the date of the filing*
13 *of the action or of the assertion of the claim. The student shall*
14 *notify the board as required by this subdivision within 30 days of*
15 *the filing of the action or of the first assertion of the claim,*
16 *whichever is later. The student shall also notify the court that he*
17 *or she has notified the board pursuant to this subdivision.*
18 *Notwithstanding any other provision of law, no judgment may be*
19 *entered pursuant to this section until the student has notified the*
20 *board of the suit and notified the court that the board has been*
21 *notified. This subdivision only applies to a new action filed or to*
22 *a new claim asserted on or after January 1, 2002.*

23 94988. (a) *No note, other instrument of indebtedness, or*
24 *contract relating to payment for educational services shall be*
25 *enforceable by any institution within or outside this state*
26 *governed by this chapter unless at the time of execution of that*
27 *note, other instrument of indebtedness, or contract, the institution*
28 *has a valid approval to operate pursuant to this chapter.*

29 (b) *No note, other instrument of indebtedness, or contract*
30 *relating to payment for educational services shall be enforceable*
31 *by any institution within or outside this state governed by this*
32 *chapter unless the agent, who enrolled persons to whom*
33 *educational services were to be rendered or to whom degrees or*
34 *diplomas were to be granted pursuant to this chapter, held a*
35 *valid agent's permit at the time of execution of the note, other*
36 *instrument of indebtedness, or contract.*

Article 14. Board Reports

94990. The board is subject to the sunset review process conducted by the Joint Committee on boards, Commissions, and Consumer Protection pursuant to Division 1.2 (commencing with Section 473) of the Business and Professions Code. Notwithstanding that this chapter does not specify that it will become inoperative on a specified date, the analyses, reports, public hearings, evaluations, and determinations required to be prepared, conducted, and made pursuant to Division 1.2 (commencing with Section 473) of the Business and Professions Code shall be prepared, conducted, and made in 2002 and every four years thereafter as long as this chapter is operative.

94995.1. (a) Notwithstanding Section 7550.5 of the Government Code, on or before January 31 of each calendar year, the board shall submit a written report to the Legislature and to the California Postsecondary Education Commission, summarizing its activities during the previous fiscal year.

(b) Annual reports prepared pursuant to this section shall include, but shall not necessarily be limited to, all of the following:

(1) Timely information relating to the enforcement activities of the board pursuant to this chapter.

(2) Statistics providing a composite picture of the private postsecondary educational community, including data on how many schools, as classified by subject matter, and how many students there are within the scope of the activities of the board.

(c) Any reports submitted by the board to the Joint Committee on boards, Commissions, and Consumer Protection pursuant to Division 1.2 (commencing with Section 473) of the Business and Professions Code during any calendar year shall satisfy the reporting requirements of this section for that year.

94995.2. The board shall annually include, in the report it prepares pursuant to Section 94995, its findings and recommendations relative to institutions that have secured institutional or programmatic approval.

94995.3. The board shall submit an annual report on the collection and expenditure of moneys collected as special assessments pursuant to the act adding this section. The board shall submit copies of this report to the chairpersons of the

1 *Assembly Committee on Higher Education, the Senate Committee*
2 *on Education, the Senate Committee on Business and*
3 *Professions, the Assembly Committee on Budget, and the Senate*
4 *Committee on Budget and Fiscal Review. The report required by*
5 *this section may be incorporated in the board's annual report to*
6 *the Legislature.*

7
8 *Article 15. Severability Provisions*
9

10 94998. *The provisions of this chapter are severable. If any*
11 *provision of this chapter or its application is held invalid, that*
12 *invalidity shall not affect other provisions or applications that*
13 *can be given effect without the invalid provision or application.*

14
15 *Article 16. Termination*
16

17 94999. *This chapter shall become inoperative on July 1,*
18 *2011, and, as of January 1, 2012, is repealed, unless a later*
19 *enacted statute, that becomes operative on or before January 1,*
20 *2012, deletes or extends the dates on which it becomes*
21 *inoperative and is repealed.*

22 ~~SECTION 1. Section 94830 of the Education Code is~~
23 ~~amended to read:~~

24 ~~94830. The bureau may refuse to issue or renew any private~~
25 ~~postsecondary or vocational educational institution's approval to~~
26 ~~operate, or may revoke any approval to operate for any one, or~~
27 ~~any combination, of the following causes:~~

28 ~~(a) A violation of this chapter, or any standard, rule, or~~
29 ~~regulation established under this chapter, or an order of the~~
30 ~~bureau made under this chapter.~~

31 ~~(b) Furnishing false, misleading, or incomplete information to~~
32 ~~the bureau, or the failure to furnish information requested by the~~
33 ~~bureau or required by this chapter.~~

34 ~~(c) A finding that an owner, a person in control, a director, or~~
35 ~~an officer of an institution is not in compliance with this chapter~~
36 ~~or was not in compliance with applicable law while serving as an~~
37 ~~owner, person in control, director, or officer of an institution~~
38 ~~within the previous five-year period.~~

39 ~~(d) A finding that a signatory to an application for an approval~~
40 ~~to operate was responsible for the closure of any institution in~~

1 ~~which there were unpaid liabilities to any state or federal~~
2 ~~government, or uncompensated pecuniary losses suffered by~~
3 ~~students without restitution.~~

4 ~~(e) A finding that the applicant, owner, or persons in control~~
5 ~~have been found previously in any judicial or administrative~~
6 ~~procedure to have violated this chapter or admitted to having~~
7 ~~violated this chapter.~~

8 ~~(f) A finding that there was either a denial of a previous~~
9 ~~application submitted by the same institution to the bureau or a~~
10 ~~revocation of the institution's approval and that the conditions or~~
11 ~~violations that were the cause of the denial or revocation have not~~
12 ~~been corrected.~~

13 ~~(g) The failure of the institution to maintain the minimum~~
14 ~~educational standards prescribed by this chapter, or to maintain~~
15 ~~standards that are the same as, or substantially equivalent to,~~
16 ~~those represented in the school's applications and advertising.~~

17 ~~(h) Presenting to prospective students information that is false~~
18 ~~or misleading relating to the school, to employment~~
19 ~~opportunities, or to enrollment opportunities in institutions of~~
20 ~~higher learning after entering into or completing courses offered~~
21 ~~by the school.~~

22 ~~(i) The failure to maintain financial resources adequate for the~~
23 ~~satisfactory conduct of the courses of instruction offered as~~
24 ~~required by statute.~~

25 ~~(j) The failure to provide timely and correct refunds to~~
26 ~~students.~~

27 ~~(k) Paying a commission or valuable consideration to any~~
28 ~~persons for acts or services in violation of this chapter.~~

29 ~~(l) Attempting to confer a degree, diploma, or certificate to~~
30 ~~any student in violation of subdivision (l) of Section 94831 or~~
31 ~~any other provision of this chapter.~~

32 ~~(m) Misrepresenting to any students or prospective students~~
33 ~~that they are qualified, upon completion of any course, for~~
34 ~~admission to professional examination under any state~~
35 ~~occupational licensing provision.~~

36 ~~(n) The failure to correct any deficiency or act of~~
37 ~~noncompliance under this chapter, or the standards, rules,~~
38 ~~regulations, and orders established and adopted under this~~
39 ~~chapter within reasonable time limits set by the bureau.~~

1 ~~(o) The conducting of business or instructional services at any~~
2 ~~location not approved by the bureau.~~

3 ~~(p) Failure on the part of an institution to comply with~~
4 ~~provisions of law or regulations governing sanitary conditions of~~
5 ~~that institution specified in Division 2 (commencing with Section~~
6 ~~500) and Division 3 (commencing with Section 5000) of the~~
7 ~~Business and Professions Code.~~

8 ~~(q) The failure to pay any fees, order for costs and expenses~~
9 ~~under Section 94935, assessments, or penalties owed to the~~
10 ~~bureau, as provided in this chapter.~~

11 ~~SEC. 2. Section 94831 of the Education Code is amended to~~
12 ~~read:~~

13 ~~94831. No institution, or representative of that institution~~
14 ~~shall do any of the following:~~

15 ~~(a) Operate in this state a postsecondary educational institution~~
16 ~~not exempted from this chapter, unless the institution is currently~~
17 ~~approved to operate pursuant to this chapter. The bureau may~~
18 ~~institute an action, pursuant to Section 94955, to prevent any~~
19 ~~individual or entity from operating an institution in this state that~~
20 ~~has not been approved to operate pursuant to this chapter and to~~
21 ~~obtain any relief authorized by that section.~~

22 ~~(b) Offer in this state, as or through an agent, enrollment or~~
23 ~~instruction in, or the granting of educational credentials from, an~~
24 ~~institution not exempted from this chapter, whether that~~
25 ~~institution is within or outside this state, unless that agent is a~~
26 ~~natural person and has a currently valid agent's permit issued~~
27 ~~pursuant to this chapter, or accept contracts or enrollment~~
28 ~~applications from an agent who does not have a current permit as~~
29 ~~required by this chapter. The bureau, however, may adopt~~
30 ~~regulations to permit the rendering of legitimate public~~
31 ~~information services without a permit.~~

32 ~~(c) Instruct or educate, or offer to instruct or educate,~~
33 ~~including soliciting for those purposes, enroll or offer to enroll,~~
34 ~~contract or offer to contract with any person for that purpose, or~~
35 ~~award any educational credential, or contract with any institution~~
36 ~~or party to perform any act, in this state, whether that person,~~
37 ~~agent, group, or entity is located within or outside this state,~~
38 ~~unless that person, agent, group, or entity observes and is in~~
39 ~~compliance with the minimum standards set forth in this article~~

1 and Article 7 (commencing with Section 94850), if it is
2 applicable.

3 (d) Use, or allow the use of, any reproduction or facsimile of
4 the Great Seal of the State of California on any diploma.

5 (e) Promise or guarantee employment.

6 (f) Advertise concerning job availability, degree of skill and
7 length of time required to learn a trade or skill unless the
8 information is accurate and in no way misleading.

9 (g) Advertise, or indicate in any promotional material, that
10 correspondence instruction, or correspondence courses of study
11 are offered without including in all advertising or promotional
12 material the fact that the instruction or programs of study are
13 offered by correspondence or home study.

14 (h) Advertise, or indicate in any promotional material, that
15 resident instruction, or programs of study are offered without
16 including in all advertising or promotional material the location
17 where the training is given or the location of the resident
18 instruction.

19 (i) Solicit students for enrollment by causing any
20 advertisement to be published in "help wanted" columns in any
21 magazine, newspaper, or publication or use "blind" advertising
22 that fails to identify the school or institution.

23 (j) Advertise, or indicate in any promotional material, that the
24 institution is accredited, unless the institution has been
25 recognized or approved as meeting the standards established by
26 an accrediting agency recognized by the United States
27 Department of Education or the Committee of Bar Examiners for
28 the State of California.

29 (k) Fail to comply with federal requirements relating to the
30 disclosure of information to students regarding vocational and
31 career training programs, as described in Section 94816.

32 (l) Confer, or attempt to confer, a fraudulent or substandard
33 degree. As used in this subdivision, "fraudulent or substandard
34 degree" means a degree awarded by an institution that does not
35 meet at least one of the following three requirements:

36 (1) Accreditation, as defined in Section 94712, by an
37 accrediting agency recognized by the United States Department
38 of Education.

39 (2) Approval to operate in California, as defined in Section
40 94718.

1 ~~(3) Approval to operate in California as an out-of-state school,~~
2 ~~as defined in Section 94737.~~

3 SEC. 3. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the
8 penalty for a crime or infraction, within the meaning of Section
9 17556 of the Government Code, or changes the definition of a
10 crime within the meaning of Section 6 of Article XIII B of the
11 California Constitution.

O